

Robinson - ASCII - 11-4-05

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1 Confidential  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 04 Civ. 9194 (GEL)  
5 - - - - - X  
6 AMY VELEZ, SONIA KLINGER, PENNI ZELINKOFF,  
7 MINEL HIDER TOBERTGA, MICHELLE WILLIAMS,  
8 JENNIFER WAXMAN-RECHT, KAREN LIGGINS,  
9 LORI HORTON, HOLLY WATERS, STEPHANIE CATES,  
10 WENDY PINSON and ROBERTA VON LINTEL,  
11 Individually and on Behalf of Others  
12 Similarly Situated,  
13 Plaintiffs,  
14 v.  
15 NOVARTIS CORPORATION and NOVARTIS  
16 PHARMACEUTICALS CORPORATION,  
17

Defendants.

13 - - - - - X  
14 CONFIDENTIAL  
15

November 4, 2005  
10:02 a.m.

16  
17  
18 CONTINUED CONFIDENTIAL 30(b)(6)  
19 DEPOSITION OF NOVARTIS CORPORATION BY JAMES D.  
20 ROBINSON, taken by Plaintiffs, pursuant to Notice,  
21 held at the offices of White & Case, 1155 Avenue of  
22 the Americas, New York, New York, before Kathleen  
23 Keefe, a Shorthand Reporter and Notary Public within  
24 and for the State of New York.  
25

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1 James D. Robinson - Confidential  
2 A p p e a r a n c e s :  
3 SANFORD, WITTELS & HEISLER, LLP  
4 Attorneys for Plaintiffs  
5 2121 K Street, NW, Suite 700  
6 Washington, DC 20037  
7  
8 BY: STEVEN L. WITTELS, ESQ.  
9  
10 WHITE & CASE LLP  
11 Attorneys for Defendants  
12 1155 Avenue of the Americas  
13 New York, New York 10036-2727  
14 BY: JACK E. PACE, III, ESQ.  
15 ALISON R. KIRSHNER, ESQ.  
16  
17 VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.  
18 Attorneys for Novartis Pharmaceuticals  
805 Third Avenue  
New York, New York 10022  
BY: JONATHAN A. WEXLER, ESQ.  
NOVARTIS PHARMACEUTICALS CORPORATION  
One Health Plaza  
East Hanover, New Jersey 07936-1080

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BY: AMY L. BABAT, ESQ.

ALSO PRESENT: SHEELA PRASAD, SANFORD,  
WITTELS & HEISLER

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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by  
and between the attorneys for the respective parties  
hereto, that all objections, except as to form,  
be reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that  
the sealing and filing of the within deposition are  
hereby waived.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be subscribed and  
sworn to by the witness being examined before a  
Notary Public other than the Notary Public before  
whom this deposition was begun.

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JAMES D. ROBINSON, Having been duly  
sworn by the court reporter, testified on his oath  
as follows:

EXAMINATION

BY MR. WITTELS (CONTINUING):

Q Okay. Good morning,  
Mr. Robinson. As you know, we're continuing  
your deposition from, let's see,  
September 28th. I'm going to be following up  
on questions. Again, we'll try to get through  
this as quickly as we can. And just ask me to  
clear up a question if it's not understandable  
to you. Okay?

A Yes.

Q Since our deposition, have you  
reviewed any more documents in preparation for  
today's continuation?

A I've looked at my affidavit  
again. No documents.

Q Did you read a copy of your  
prior deposition?

A Yes.

Q Did you read a copy of anyone  
else's deposition?

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A No.

Q Are you aware of the other

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4 depositions that have taken place since yours?

5 A Yes.

6 Q Are you aware of any of the  
7 testimony that was given at those depositions?

8 A No.

9 Q Who have you met with in  
10 connection with this continued deposition?

11 A Mr. Pace. Excuse me. Just  
12 Mr. Pace.

13 Q Have you discussed the case with  
14 anyone at any of the Novartis family companies  
15 or anyone else since your last deposition?

16 A No. I remember our general  
17 counsel asked me how my deposition went last  
18 time and I said, Well, I think it went pretty  
19 well. But there was no detail. He was just --

20 MR. PACE: Obviously --

21 Q Is that Mr. Merkelson?

22 MR. PACE: By the way, let me  
23 just jump in. He asked just a general  
24 question, a yes or no. To the extent you're  
25 talking to your in-house lawyers, it's

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2 privileged about this case, so I'm going to  
3 instruct you not to answer it to the extent in  
4 answering these questions you need to divulge  
5 any communications with your lawyers.

6 THE WITNESS: Okay.

7 Q You can tell me who you spoke  
8 to. I'm not asking for the content. Who did  
9 you speak to?

10 A Mr. Benjamin.

11 Q Okay. Anyone else?

12 A No.

13 Q Have you met with any of the  
14 lawyers for Novartis Pharmaceutical since, or  
15 talked to any of those lawyers who represent  
16 Novartis Pharmaceutical since your last  
17 deposition?

18 A No.

19 Q Were any of those Novartis  
20 Pharmaceutical lawyers present in terms of  
21 preparing you for this deposition?

22 A No.

23 Q Were they present or did any of  
24 the Novartis Pharmaceutical lawyers prepare you  
25 for the last deposition? And by those I mean

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2 from Vedder Price.

3 A No.

4 Q When I asked you at the last  
5 deposition who had assisted you in preparing  
6 the affidavit that you mentioned, you looked  
7 at, again, Exhibit 1, marked at the last  
8 deposition, you had originally said Mr. Pace  
9 and then had corrected that. Do you remember  
10 that answer?

11 A Yes.

12 Q Which lawyer from an outside  
13 firm had helped you prepare this affidavit?

14 A No one from an outside firm.

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15 Q Were you communicating with  
16 outside counsel at the time this affidavit was  
17 submitted in support of defendants' motion for  
18 summary judgment?

19 A No.

20 Q Who were you communicating with?

21 A One of our in-house attorneys.

22 Q Who was that?

23 A Mr. Rosenfeld.

24 Q And what company does

25 Mr. Rosenfeld work for?

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2 A He works for Novartis Finance  
3 Corporation.

4 Q Is he in New York?

5 A Yes.

6 Q Who does he report to?

7 A Mr. Benjamin.

8 Q What's his first name?

9 A Barry.

10 Q Did you communicate with any  
11 other lawyers, whether in one of the Novartis  
12 companies or outside counsel, in preparing this  
13 deposition -- this affidavit?

14 A No.

15 Q Did you communicate with any  
16 outside counsel prior to preparing this  
17 affidavit about any topic regarding this  
18 lawsuit?

19 A No.

20 Q Did you communicate -- have you  
21 communicated with Vedder Price or Vedder  
22 Price's counsel in any fashion in preparing for  
23 this deposition or preparing any aspect of this  
24 case involving the Velez matter against  
25 Novartis?

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2 A No.

3 MR. PACE: Object to the form of  
4 the question.

5 Q Do you understand my question?

6 A Yes, I understand. No.

7 Q So you never met with any Vedder  
8 Price lawyers? You've never talked to them?  
9 You don't know their involvement in any aspect  
10 of this case?

11 MR. PACE: Object to the form of  
12 those questions.

13 MR. WITTELS: Let me ask them  
14 one at a time.

15 Q Are you aware of when White &  
16 Case was retained in this case to represent  
17 Novartis Corporation?

18 A Yes.

19 Q When?

20 A It was after this. It was some  
21 time after that when I met Mr. Pace,  
22 Mr. Fitzpatrick.

23 Q Is that the first time you'd  
24 ever met Mr. Fitzpatrick, after you prepared  
25 this affidavit?

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2 A Yes.

3 Q And who directed you to meet  
4 Mr. Fitzpatrick?

5 MR. PACE: Object to form. Lack  
6 of foundation.

7 A Mr. Benjamin.

8 Q Is this -- your affidavit is  
9 dated April 15th, '05. How long after  
10 preparing and submitting this affidavit did you  
11 meet with Mr. Fitzpatrick?

12 A I don't remember. It was a  
13 couple of months. There was a time lapse  
14 there.

15 Q Did you have any involvement in  
16 retaining the White & Case firm to represent  
17 Novartis Corp. --

18 A No.

19 Q -- in defense of this  
20 litigation?

21 A No.

22 MR. WITTELS: Off the record.  
23 (Discussion off the record.)

24 Q Do you know -- did you have any  
25 discussion with anyone at Novartis about

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2 retaining White & Case?

3 MR. PACE: Object to form.  
4 Vague and ambiguous.

5 A No.

6 Q Were you involved -- strike  
7 that. Okay.

8 So is it your testimony that  
9 Mr. Rosenfeld was the lawyer who prepared this  
10 affidavit, Robinson Exhibit 1?

11 MR. PACE: Object to form.  
12 Mischaracterizes.

13 A No.

14 Q Who actually typed it up?

15 A I don't know who typed it up.

16 Q Who wrote it?

17 A I remember writing it out in  
18 longhand, specific points.

19 Q And what did you do after you  
20 wrote it in longhand?

21 A I can't remember.

22 Q Did you give it to  
23 Mr. Rosenfeld, or did you give it to someone  
24 else?

25 A I can't remember.

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2 Q Do you know how it became  
3 finalized?

4 MR. PACE: Object to form.

5 A No, I don't.

6 Q What is the procedure that is  
7 followed at the Novartis country companies when  
8 a female Novartis Pharmaceutical employee  
9 complains to a representative or to someone at  
10 Novartis Pharmaceutical human resources

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11 department?

12 MR. PACE: Object to form.

13 Lacks foundation.

14 A There's not a procedure.

15 Q Okay. What is the practice as  
16 you understand it at Novartis family -- strike  
17 that.

18 When I refer to "Novartis  
19 country," I'm referring to all three companies,  
20 the Novartis Finance, Novartis Services and  
21 Novartis Corp., as you described them at the  
22 last deposition. Is that clear?

23 A Yes.

24 Q And if you want to further  
25 delineate those companies and not just confine

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2 your answer to all three companies, you just  
3 tell me when you answer. Is that clear?

4 A Yes.

5 Q What is the procedure at the  
6 Novartis country companies, or practice, when a  
7 female Novartis Pharmaceutical employee makes a  
8 complaint to the NPC human resources  
9 department?

10 MR. PACE: Object to form.

11 Asked and answered and lacks foundation.

12 THE WITNESS: Would you repeat  
13 the question again?

14 (Record read.)

15 A There's not a procedure.

16 Q Or practice?

17 A Or practice.

18 Q What -- is the -- strike that.

19 Are any of the Novartis country  
20 companies informed in any manner when a female  
21 Novartis Pharmaceutical employee complains to  
22 the NPC human resources about any alleged  
23 unlawful activity?

24 MR. PACE: Object to the form.

25 A No.

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2 Q Are you informed by Novartis  
3 Pharmaceutical HR when complaints regarding  
4 civil rights, be it gender, be it race, are  
5 made to Novartis Pharmaceutical?

6 A No.

7 Q Have you been -- were you made  
8 aware in this case of the complaints brought by  
9 a number of women complaining about gender  
10 discrimination at Novartis Pharmaceutical that  
11 led to this lawsuit?

12 A Yes.

13 Q How did you become aware that  
14 women had been complaining to Novartis  
15 Pharmaceutical about their treatment?

16 MR. PACE: Object to the form of  
17 the question. Assumes facts not in evidence.

18 A When it was published in the  
19 news wires and I read it on our news line.

20 Q When you say "our news line,"  
21 are you talking about a Novartis internal news

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22 line?

23 A It's a clip -- it's a newspaper  
24 service. So whenever the company is mentioned,  
25 you just -- the headline pops up and you just

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2 go in and read the daily news.

3 Q What service pops up on your  
4 computer?

5 A I think it's called News of the  
6 Day, but I'm not even sure.

7 Q Now, is this a news item on any  
8 Novartis company?

9 A Yes.

10 Q What computer system are you on  
11 that would enable that to occur?

12 MR. PACE: Object to form.

13 A Just the -- it's the company  
14 computer system.

15 Q Right. Is that a Novartis  
16 service that's provided to all the Novartis  
17 companies? In other words, if I'm at Novartis  
18 Pharmaceuticals, I get the same service that  
19 pops up, any Novartis-related article, and if  
20 I'm at Novartis Corporation, I also would get  
21 the same information?

22 MR. PACE: Object to form.

23 A Yes, as well as any of the other  
24 Novartis companies. It's all the same news  
25 service.

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2 Q Is that across the company  
3 intranet?

4 A Yes.

5 Q Who maintains the company -- the  
6 Novartis intranet that would go to Novartis  
7 Corp., Novartis Services, Novartis Finance and  
8 Novartis Pharmaceutical?

9 MR. PACE: Object to form.

10 Mi scharacterizes.

11 A I don't know who that person is;  
12 I can't remember his name. But he's from  
13 Vedder Price.

14 Q The first time you became aware  
15 of any complaints by women about gender  
16 discrimination related to this lawsuit was when  
17 you read about it in the press. Is that your  
18 testimony?

19 A Yes.

20 Q No one from Novartis  
21 Pharmaceuticals had ever communicated to you  
22 that there had been EEOC charges filed by women  
23 complaining of gender discrimination prior to  
24 your reading that on the wires?

25 MR. PACE: Objection.

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2 Q Was that your testimony?

3 MR. PACE: Objection. Asked and  
4 answered twice now.

5 A Yes.

6 Q Have you, from 1996 to present,

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7 been notified at any time by any HR personnel  
8 at Novartis Pharmaceutical about any complaints  
9 about employees at Novartis Pharmaceutical  
10 regarding gender, race, or any other alleged  
11 discrimination?

12 MR. PACE: Objection. Vague.  
13 Overbroad.

14 A I can't remember.

15 Q Do you believe that such  
16 notification of complaints by employees at  
17 Novartis Pharmaceuticals was made aware to you  
18 over the years?

19 MR. PACE: Object to the form of  
20 the question.

21 A No. It's not my job. They  
22 wouldn't have any reason to do that.

23 Q Does -- do any of the Novartis  
24 country companies maintain any personnel  
25 records for any Novartis Pharmaceutical

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2 employees?

3 MR. PACE: Objection. Lack of  
4 foundation. Calls for speculation.

5 A No.

6 Q Do you, as the head of HR at  
7 Novartis Corporation, Novartis Financial and  
8 Novartis Services, have access to the personnel  
9 filings of Novartis Pharmaceutical employees?

10 A No.

11 Q Can you ask the personnel at  
12 Novartis Pharmaceuticals for that access if you  
13 want it?

14 A I can ask, but that doesn't mean  
15 I get it. But I wouldn't have a reason to ask.

16 Q Have you ever looked at any  
17 personnel files of any Novartis Pharmaceutical  
18 employees?

19 A No.

20 Q Have any of your staff members  
21 to your knowledge looked at any personnel files  
22 of any Novartis Pharmaceutical employees?

23 A No.

24 Q No, you're not aware of them  
25 looking, or no, they've never looked?

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2 MR. PACE: Objection to form.  
3 Asked and answered.

4 A They don't have access to those  
5 files.

6 Q Well, Ms. Di Paolo has access to  
7 Novartis Pharmaceutical employee records.  
8 Correct?

9 A No.

10 MR. WITTELS: Could you read the  
11 question and answer back, please?

12 (Record read.)

13 Q Are you telling me that  
14 Ms. Di Paolo cannot look at any personnel  
15 records of Novartis Pharmaceutical employees?

16 MR. PACE: Object to form.

17 A I don't think so, because her  
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18 clients are all corporate employees.  
 19 Q What does that mean?  
 20 A Her clients are all my folks.  
 21 Q And by "clients," what does  
 22 that -- can you describe what you mean by that?  
 23 A She's the line HR person for all  
 24 the corporate employees in the U.S. There's  
 25 about 150 people, and their personnel files are

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 2 all separate from all the other affiliates.  
 3 And so she only has access to those files of  
 4 her clients.  
 5 Q So she can only look at  
 6 corporate employees' personnel files who work  
 7 for Novartis Corp, Novartis Finance, or  
 8 Novartis Services? Is that what you're saying?  
 9 A Yes.  
 10 Q Can she look at corporate  
 11 personnel files for any other Novartis  
 12 companies?

13 MR. PACE: Object to the form of  
 14 the question.

15 A There are no corporate files for  
 16 any of the other Novartis companies.

17 Q Does she have access to any  
 18 personnel records of employees who are not  
 19 corporate of Novartis Corporation, Novartis  
 20 Finance, or Novartis Services?

21 A No.

22 Q My series of questions to you  
 23 about your access to personnel records was  
 24 directed to Novartis Pharmaceutical employees.  
 25 If I asked the same series of questions about

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 2 your access to corporate officer personnel  
 3 records or at any level above employees at  
 4 Novartis Pharmaceuticals, would your answer be  
 5 the same, that you don't have access, or that  
 6 you do?

7 MR. PACE: Objection. Vague and  
 8 ambiguous.

9 THE WITNESS: Could you repeat  
 10 that, please?

11 (Record read.)

12 A No, I don't have access.

13 Q Where are the records of  
 14 complaints kept by Novartis Pharmaceutical  
 15 employees?

16 MR. PACE: Objection. Calls for  
 17 speculation.

18 A I don't know.

19 Q Who has oversight of the  
 20 Novartis Pharmaceuticals' human resources  
 21 department?

22 MR. PACE: Object to form.

23 A The head of human resources.

24 Q And that's currently

25 Ms. O'Hagan. Correct?

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2 A Yes.

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3 Q Who has oversight above  
4 Ms. O'Hagan of the Novartis Pharmaceuticals'  
5 human resources department?

6 MR. PACE: Same objection.  
7 A The CEO of the business  
8 affiliate.

9 Q Who is that?

10 A Mr. Gorsky.

11 Q And above Mr. Gorsky, who has  
12 oversight of the Novartis Pharmaceuticals'  
13 human resources department?

14 MR. WEXLER: Objection to form.

15 MR. PACE: Objection. Assumes  
16 facts not in evidence.

17 A The board of Novartis  
18 Pharmaceuticals Corporation.

19 Q Isn't it correct that the head  
20 of the human resources at Novartis Pharma AG in  
21 Switzerland actually has oversight over the  
22 Novartis Pharmaceuticals' human resources  
23 department?

24 MR. WEXLER: Objection.

25 MR. PACE: Objection. Calls for

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2 speculation.

3 A No, I don't think so.

4 Q Do you know who Mr. Anthony is?

5 A Yes.

6 Q Who is he?

7 A He's the global head of human  
8 resources.

9 Q For what company?

10 A Novartis Pharmaceuticals AG, I  
11 believe it is.

12 Q And isn't it correct that he is  
13 actually overseeing the operation of the  
14 American Novartis Pharmaceuticals' human  
15 resources department?

16 MR. PACE: Objection. Asked and  
17 answered.

18 A Well, not the personnel files.

19 Q I'm not asking about personnel  
20 files. I said the "human resources  
21 department."

22 MR. PACE: Same objection.

23 A I wasn't following your line of  
24 questioning. On a very broad, global basis,  
25 yes, he has strategic oversight.

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2 Q What does "strategic oversight"  
3 of the human resources department at Novartis  
4 Pharmaceuticals mean?

5 A Just ways of -- the way the  
6 human resource function is developed and  
7 managed in each of the Novartis Pharmaceutical  
8 affiliates worldwide in terms of some processes  
9 and systems and the way -- the culture behind  
10 it and the way the function is practiced.

11 MR. PACE: Counsel, before you  
12 ask the next question, just -- I have to object  
13 to this. This is a topic that not only was

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14 this witness not designated to testify on, but  
15 that you've now had two other witnesses from  
16 Novartis Pharmaceuticals testify on, and even  
17 there it was outside the scope of the  
18 deposition notice.

19 As you know, time is very  
20 limited this morning. And we accommodated you  
21 by coming back and giving you the time that  
22 you're entitled to, but to spend the time on  
23 this is completely inappropriate and outside of  
24 this witness' scope of knowledge, outside of  
25 what we designated him for.

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2 MR. WITTELS: Okay. I'll just  
3 ask a few more questions in this area.

4 MR. PACE: We'll see.  
5 Q Does Neil Anthony and his human  
6 resources global department, as you described  
7 it, have any development and management  
8 direction of the Novartis country companies'  
9 human resources department?

10 A No.

11 Q Do you or any members of the  
12 Novartis country companies' human resources  
13 department attend any of the meetings that are  
14 conducted by Neil Anthony and his human  
15 resources department?

16 A No.

17 Q Have you in the past gone to any  
18 of the meetings conducted by Neil Anthony, or  
19 training sessions conducted by him or anyone in  
20 his group?

21 MR. PACE: Objection. Asked and  
22 answered.

23 A No.

24 Q Do you communicate with Neil  
25 Anthony on any type of basis?

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2 MR. PACE: Object to form.

3 A No.

4 Q When is the last time you had  
5 any communication with him?

6 A Some weeks ago.

7 Q What was the topic of your  
8 conversation or communication?

9 A It had to do with his deferred  
10 compensation plan.

11 Q What aspect of Mr. Anthony's  
12 deferred compensation plan would be germane to  
13 a communication from you?

14 A Well, I manage it for him.

15 Q When you say "I" --

16 A I mean my department, excuse me.

17 Q -- you're talking about Novartis  
18 Corporation --

19 A Yes.

20 Q -- and the other Novartis  
21 country companies?

22 THE WITNESS: Excuse me. What  
23 was the question?

24 (Record read.)

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25 A No. Just in the United States.

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2 Not in any other countries.

3 Q What I was asking was: When you  
4 said that you manage Mr. Anthony's deferred  
5 compensation, you said, Novartis Corporation.  
6 Are you referring also to Novartis Finance and  
7 Novartis Services in terms of managing  
8 Mr. Anthony's deferred compensation?

9 MR. WEXLER: Objection. Object  
10 to the relevance of this inquiry, as Mr. Pace  
11 pointed out.

12 A His account is managed by --  
13 within our department is all the primary kind  
14 of interface is.

15 Q When you say "our" --

16 A I'm sorry.

17 Q When you answer the question,  
18 are you talking about all country companies?

19 A Yes.

20 Q Am I correct that the Novartis  
21 country companies manage all deferred  
22 compensation for all of the Novartis related  
23 companies in the United States?

24 MR. PACE: Object to form.

25 A Well, "manage" is really the

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2 wrong word. We have a record-keeper and we're  
3 the interface between the employee and the  
4 record-keeper.

5 Q For all Novartis related  
6 companies in the United States. Is that  
7 correct?

8 A Yes, who participate in the  
9 deferred compensation plan.

10 Q Was the deferred compensation  
11 plan a plan that was established by the  
12 Novartis country companies?

13 MR. PACE: Object to the form of  
14 the question.

15 A No. Each company has its own  
16 specific plan.

17 Q Is that plan prepared by the  
18 Novartis country companies?

19 MR. PACE: Object to form.

20 A There's a template that's  
21 followed, but the plan is presented to the  
22 affiliate and the affiliate chooses to --  
23 whether or not it wants to have a deferred  
24 compensation plan. Some affiliates, I believe,  
25 have chosen not to participate. And then

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2 the -- and then the local board of the  
3 affiliate decides whether it approves the plan  
4 document.

5 MR. WITTELS: Okay. Off the  
6 record.

7 (Discussion off the record.)

8 (Robinson Exhibit 2: Marked for  
9 identification.)

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Q Mr. Robinson, let me show you what we've marked as Defendants' Exhibit 2, called the Novartis Deferred Compensation Plan, effective January 1, 2003, NPC 99 through 123. Can you take a look at this document and tell me, have you seen it before?

A Yes.

Q Is this a deferred compensation plan that was prepared by Novartis for Novartis country companies?

MR. PACE: Object to form.

A No. It was prepared by outside counsel for the Novartis country organization.

Q Okay. So the deferred compensation plan was prepared by outside counsel at the direction of the Novartis

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James D. Robinson - Confidential country companies. Correct?

A Yes.

MR. PACE: Object to form.

A Yes, but the reason was because we want each of the business affiliates in the U.S. to use the same plan, whether it be Gerber, Ciba Vision, Animal Health, Novartis Over The Counter, Novartis Pharmaceuticals. Each of the affiliates uses the same -- a plan. They're mirror plans, but each of the local boards has to decide whether or not it wants to participate.

Q Why does the Novartis companies want all of the affiliates, including Novartis Pharmaceuticals, to use the same deferred compensation plan?

A Because we wouldn't want -- we wouldn't want nine different deferred compensation plans in the U.S. It would just be too disjointed and too unorganized to manage, especially with -- the plans now have to be managed very carefully and the populations have to be examined every year. And it's just -- this consistency is much

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James D. Robinson - Confidential better on any sort of executive benefit like this.

Q When you say the populations have to be managed very carefully, what populations are you talking about?

MR. WEXLER: Objection. Mischaracterizes his testimony.

MR. PACE: Same objection.

A The populations that are eligible for the deferred compensation plan in each of the business affiliates.

Q Who has to carefully monitor those populations?

MR. PACE: Object to form.

A The participation is monitored by the business affiliate.

Q Does -- do the Novartis country companies also monitor who's participating in the deferred compensation plan?

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21 MR. PACE: Object to form.  
22 Asked and answered.

23 A No, we don't monitor who's  
24 participating.

25 Q Am I right that the Novartis  
0181

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2 country companies administer the deferred  
3 compensation plan for each of the affiliate  
4 companies, including Novartis Pharmaceuticals?

5 A Administer just in terms of  
6 having one interface with the record-keeper  
7 rather than nine different interfaces.

8 Q The person at Novartis country  
9 companies who administers the deferred  
10 compensation plan is Bill Flannery. Is that  
11 correct?

12 MR. PACE: Object to form.

13 A Yes.

14 Q How many companies -- strike  
15 that.

16 Am I right that all the Novartis  
17 Pharmaceutical companies, including the parent  
18 and subsidiaries, have adopted the deferred  
19 compensation plan that was prepared by the  
20 Novartis country companies?

21 MR. WEXLER: Objection to form.

22 MR. PACE: Object to form.

23 A I don't know.

24 Q Are you aware of any Novartis  
25 Pharmaceutical company that has not adopted and  
0182

1 James D. Robinson - Confidential  
2 does not use a deferred compensation plan  
3 prepared by Novartis country companies?

4 MR. WEXLER: Objection to form.

5 MR. PACE: Same objection.

6 MR. WEXLER: What is "any  
7 Novartis Pharmaceutical company"?

8 MR. WITTELS: I'm talking about  
9 Novartis Pharmaceutical or any subsidiary of  
10 Novartis Pharmaceutical.

11 MR. PACE: I also object to your  
12 characterization of the "plan."

13 Q You can answer.

14 A No.

15 Q You're not aware of any company  
16 that doesn't use the plan. Is that correct?

17 A Not a subsidiary of Novartis  
18 Pharmaceuticals Corporation, but we do have  
19 affiliates in the United States that have not  
20 adopted the plan.

21 Q How many?

22 A I believe Sandoz is the only  
23 one.

24 Q Why didn't Sandoz adopt the  
25 plan?  
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2 MR. PACE: Objection. Calls for  
3 speculation.

4 A I don't know.

5 Q All right. Did Bill Flannery

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ever work for Novartis Pharmaceuticals?

A Yes.

Q When was that?

A Well, I hired him I think in 1999, so before that he worked for Novartis Pharmaceuticals Corporation.

Q In what capacity did he work for Novartis Pharmaceuticals?

A I think he was the head of employee benefits.

Q Now he works for all three Novartis Pharmaceutical -- Novartis country companies. Is that right?

A Yes, he does.

Q Did Grace Heller ever work for Novartis Pharmaceuticals?

A No.

Q Did any other employee who is currently at Novartis country companies or previously at Novartis country companies in the

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HR department ever work at Novartis Pharmaceuticals?

MR. PACE: Object to form.

Q Do you want to have the question read back?

A Please.

(Record read.)

A Yes.

Q Who?

A Elizabeth Kirck. She's a retiree who works for me part time through a third-party contractor.

Q Elizabeth Kirck works for Manpower. Is that right?

A Yes, but I corrected that on my errata sheet. She works for Elite Personnel.

Q How many years did Ms. Kirck work for Novartis Pharmaceutical?

A I don't know.

Q Approximately what period of time did she work for Novartis Pharmaceuticals?

MR. PACE: Object to form.

A Well, I think she was there -- she was there at the time of the merger and

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then she came to work for me. She retired in about '99 or 2000 and then she came to work for us part time, but I don't know how long she was there.

Q And what are her duties now with you at the Novartis country companies?

A She maintains my interface into the Novartis Pharmaceuticals' HRIS system and the Novartis Pharmaceuticals' payroll system and other administrative duties.

Q What were her -- what was her title and what were her duties when she was at Novartis Pharmaceuticals?

A I don't know.

Q Did she have experience --



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17 strike that.

18 What is the HR -- what is the  
19 human resources system interface that you just  
20 described?

21 A It's the PeopleSoft system.

22 Q Now, you said she maintains the  
23 interface to Novartis Pharmaceuticals for the  
24 PeopleSoft system. Am I right?

25 A Yes.

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1 James D. Robinson - Confidential

2 Q Does that interface enable you  
3 to access information about employees who work  
4 for Novartis Pharmaceuticals?

5 MR. PACE: Object to form.  
6 Asked and answered.

7 A No.

8 Q What does the interface with the  
9 Novartis Pharmaceuticals' human resources  
10 system enable you to access with respect to  
11 Novartis Pharmaceutical employees or officers  
12 or information?

13 MR. PACE: Objection. Lack of  
14 foundation. Mischaracterizes his testimony.

15 A Nothing.

16 Q What is the point of the  
17 interface?

18 A Because I use the interface -- I  
19 don't have an HRIS system, so I use Pharma's  
20 HRIS system and I use Pharma's payroll system.  
21 So if I didn't use their system, I'd have to  
22 create my own systems.

23 Q So the HR system you use that is  
24 NPC's is used to manage all of the Novartis  
25 country employees?

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2 A Yes, sir, but there's a Chinese  
3 wall that is up there.

4 Q And who put this so-called  
5 Chinese wall up there?

6 A It's part of our operating  
7 policy. They can't see any of my people and I  
8 can't see theirs and either can Mrs. Kirck.

9 Q The HR system and the HR payroll  
10 system that you use that belong to Novartis  
11 Pharmaceuticals are maintained by Novartis  
12 Pharmaceuticals. Is that correct?

13 MR. PACE: Object to form.

14 A I'm not sure.

15 Q Does -- do any of the Novartis  
16 country companies pay for use of the Novartis  
17 Pharmaceuticals' HR system and/or the HR  
18 payroll system?

19 MR. PACE: Just one  
20 clarification, and I apologize. Do you mean  
21 the HRS system?

22 MR. WITTELS: HRS.

23 MR. PACE: Okay. That was what  
24 I was objecting to. Then I'll withdraw the  
25 objection.

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2 A Well, I pay for the interface  
3 out of my budget each month, and that's --  
4 there may be other charges, I'm sure there are,  
5 but I don't know what they are.

6 Q What does HRS stand for?

7 A It's HRIS, human resource  
8 information system.

9 Q Now, you said at your earlier  
10 deposition you have a monthly budget and in  
11 that budget are expenditures to Novartis  
12 Pharmaceuticals. Correct?

13 A Yes.

14 Q Is there a line item in your  
15 monthly budget as to what the expenses are for  
16 Novartis Pharmaceuticals?

17 A Yes. From Novartis  
18 Pharmaceuticals.

19 Q What do you mean, "From"?

20 A It's what I get charged each  
21 month to use their HRIS and payroll system.

22 Q Are there other items on the  
23 budget that are from Novartis Pharmaceuticals  
24 for items you must pay for at Novartis country  
25 companies?

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2 A Not on my budget.

3 Q Are there items that Novartis  
4 country companies must pay for -- to Novartis  
5 Pharmaceuticals on someone else's budgets?

6 MR. PACE: Object to form.

7 A I don't know.

8 Q How much do you pay per month to  
9 Novartis Pharmaceuticals for the HRIS system  
10 and the payroll system that NPC owns?

11 A It's about \$5,000 month.

12 Q Are there any other items on the  
13 Novartis country budget that you pay per month  
14 or on any interim basis to Novartis  
15 Pharmaceuticals?

16 MR. PACE: Object to form.

17 Asked and answered.

18 A No.

19 Q How long has the -- strike that.  
20 Before January of 2003, was  
21 there a deferred compensation plan at Novartis  
22 Pharmaceuticals Corp. that had been prepared by  
23 the Novartis country companies?

24 MR. PACE: Object to form.

25 A Yes.

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2 Q Was it a prior version of this  
3 Exhibit 2?

4 A Yes.

5 Q How many years has there been a  
6 deferred compensation plan at Novartis  
7 Pharmaceuticals that had been prepared by the  
8 Novartis country companies?

9 MR. PACE: Object to form.

10 A Since the merger and before.  
11 There were deferred compensation plans at  
12 Sandoz and at Ciba Guigey prior to 1996.

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Q My question is: After the merger in 1996, have the Novartis country companies always prepared the deferred compensation plan that has been used by Novartis Pharmaceuticals?

A The mirror plan, the model plan, yes. But Novartis Pharmaceuticals has to -- its board has to accept the plan and vote on it.

Q But as far as you know, the board of Novartis Pharmaceuticals has accepted the plan offered by Novartis Corporation from 1996 to present. Correct?

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MR. PACE: Objection. Mischaracterizes.

A I'm not sure.

Q You mentioned that you are responsible for Mr. Anthony's deferred compensation plan. Are you responsible for any other employee or officer's plan, any parent of Novartis Pharmaceuticals?

MR. WEXLER: Objection to form.

A I'm responsible in terms of the relationship with the record-keeper.

Q For what other companies besides Novartis Pharmaceuticals and the U.S. companies?

A All the U.S. companies which have adopted this plan.

Q Who does Neil Anthony work for?

A Neil Anthony works for -- I'm not sure of the company, but he works in Switzerland.

Q So are there other Swiss employees or officers who Novartis country companies monitors or controls with respect to their deferred compensation plan?

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MR. PACE: Objection as to "monitors or controls."

A Yes, if they're eligible to participate in the plan. Mr. Anthony participates because he's a U.S. expatriate and he's eligible to participate.

Q What other employees participate in the plan who are U.S. expatriates? And I'm talking about in any of the Novartis companies.

MR. PACE: Same objection as before. This is far beyond what we're here for today.

A Mr. Anthony is one of many, many people who are U.S. expatriates who participate in the plan.

Q How many?

A Thirty? I don't know the exact number.

Q Are there other expatriates who used to work for any of the Novartis country companies who Novartis country companies administers with respect to their deferred

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24 compensation plan?

25 A Yes.

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2 Q Who are those employees?

3 A Mr. Christian, who's head of  
4 security; Mr. Nash, who's head of HR for  
5 consumer products. I can't think of anybody  
6 right -- Mr. Shannon I think is head of  
7 development or --

8 Q What companies do these  
9 gentlemen work for, Christian, Nash and  
10 Shannon?

11 A They work for a U.S. company.  
12 They're a U.S. expatriate, but -- they're  
13 seconded to a second company in Switzerland,  
14 but they're eligible because they're U.S. based  
15 employees who are on secondment to a foreign  
16 assignment, so that's how they're eligible.

17 Q Did you say consignment?

18 A Assignment.

19 Q They used -- these employees  
20 used to work for one of the Novartis country  
21 companies. Correct?

22 A Yes.

23 Q Do you have a list in your  
24 office of all the expatriates who used to work  
25 for the Novartis country companies who now work

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2 for other Novartis companies?

3 A No.

4 Q If you wanted to access  
5 information about the expatriate employees who  
6 used to work for Novartis country companies,  
7 what would you look up?

8 MR. PACE: Before you answer  
9 that, what does this have to do with anything?  
10 What does this have to do with the relationship  
11 between Corp. and Pharma? We spent so much  
12 time in the other depositions talking about  
13 this, and we've given you a lot of leeway, even  
14 this morning. What does this have to do with  
15 anything?

16 MR. WITTELS: I think it's  
17 germane to where they go, so I'm asking for  
18 informational purposes.

19 MR. PACE: Okay. You can answer  
20 that question, but I completely object. This  
21 is just an exercise to allow you to come in for  
22 informational purposes to learn about the  
23 various Novartis companies. If that -- we  
24 assumed that was your purpose and now it's  
25 obviously clear that it is. It's completely

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2 inappropriate.

3 THE WITNESS: Could you repeat  
4 the question, please?

5 (Record read.)

6 A I don't know what I would look  
7 up.

8 Q How do you know Mr. Christian,

Robinson - ASCII - 11-4-05

9 Nash and Shannon are part of -- are  
10 ex-employees whose deferred compensation plan  
11 you administer at the Novartis country  
12 companies?

13 MR. WEXLER: Objection.

14 MR. PACE: Same objection.

15 A Well, Mr. Christian is one of my  
16 expatriates from the Novartis Services.  
17 Mr. Shannon or Dr. Shannon, I'm just aware of  
18 because there have been a lot of changes in the  
19 law with deferred comp in the last few months  
20 and I know that he called with some questions  
21 about it. And Mr. Anthony, the same. He was  
22 concerned because he had read about all the  
23 changes and he called and asked for some more  
24 information about it. So those were just three  
25 who came to mind.

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2 Q What other -- who set up the  
3 changes in the deferred compensation plan? Was  
4 that from the Novartis country companies?

5 MR. PACE: Objection. What  
6 changes are we talking about? If we're talking  
7 about changes that were affecting people  
8 outside the country, it's completely outside  
9 this notice. He's not answering the question.  
10 That's it. We've spent enough time on this.

11 Q What changes were you talking  
12 about?

13 A The changes that were signed  
14 into law by Congress.

15 Q Did these affect the Novartis  
16 Pharmaceutical employees as well as the  
17 expatriate employees?

18 A They affected everybody in any  
19 company in the United States, in any company  
20 that sponsors one.

21 Q Do you have a -- strike that.  
22 What are the names of the  
23 employees who have gone from the Novartis  
24 country company to work for Novartis  
25 Pharmaceuticals or any of its subsidiaries?

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2 MR. PACE: Objection. Form.

3 MR. WEXLER: Wasn't this asked  
4 and answered?

5 MR. PACE: Yes. And duplicative  
6 of other depositions and interrogatory  
7 responses and other discovery.

8 A I can't think of anybody.

9 Q Do you have records at Novartis  
10 country companies that show which employees  
11 went from the country companies to Novartis  
12 Pharmaceuticals?

13 A Yes.

14 Q What are those records?

15 A They were supplied.

16 Q To who?

17 A I know that the records were  
18 supplied.

19 Q What are these records?

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20 A Most of our employees who are --  
21 transfer internally, come from Novartis  
22 Pharmaceuticals because it's our largest  
23 employer in the U.S. So at some point I know I  
24 was asked to put something together, who those  
25 people were, and I can't remember when or who

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1 James D. Robinson - Confidential  
2 it was. It was just a handful of people.

3 Q From Novartis Pharmaceuticals to  
4 Novartis country companies?

5 A Yes.

6 Q And how about the other way,  
7 from the country companies to Novartis  
8 Pharmaceuticals?

9 A I'm not sure about that one.

10 Q Did you provide that list to  
11 in-house counsel or out-of-house counsel?

12 A I don't remember.

13 Q Do you know who Sabine Moravi  
14 is?

15 A Yes.

16 Q Did she not go from Novartis  
17 country companies to Novartis Pharmaceuticals?

18 A Not technically.

19 Q What does that mean?

20 A She's a Swiss expatriate on  
21 assignment in the United States. She was on  
22 secondment. She was under a contract under an  
23 expatriate assignment to the U.S. and on  
24 secondment to Novartis Services. She wasn't my  
25 employee. She was really a Swiss employee over

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1 James D. Robinson - Confidential  
2 here on foreign assignment, the reverse of what  
3 we were talking about with Mr. Anthony and  
4 Mr. Christian.

5 Q What company was she on  
6 consignment from?

7 MR. PACE: Objection just to the  
8 term "consignment."

9 Q It's "assignment," excuse me.

10 A There's a contract of employment  
11 and then there's a secondment agreement, so --

12 Q What is -- I've never heard of  
13 this secondment agreement. What is that?

14 A Well, you do that with an  
15 employee who is a foreign national. I guess  
16 it's because of their visa or something. I  
17 don't really know.

18 Q What Swiss company did she work  
19 for?

20 A I don't know.

21 Q When she came here to the U.S.,  
22 did she work for NSI or any other Novartis  
23 country companies?

24 A She was on secondment to  
25 Novartis Services, Inc. here in Manhattan. No.

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2 Wait a minute. She would have been in Finance.  
3 She was -- I think she was in Finance.

4 MR. PACE: If you know.

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5 A I'm sorry. I don't remember.  
6 Q And she now works for Novartis  
7 Pharmaceuticals. Is that right? Or she's out  
8 on leave now, but she went over to Novartis  
9 Pharmaceuticals. Is that right?  
10 A She went over there and her  
11 assignment was transferred to Novartis  
12 Pharmaceuticals.  
13 Q Okay. Did -- go ahead.  
14 MR. PACE: Were you done?  
15 A She's a rare case. I've never  
16 had a U.S. expat in corporate go into Novartis  
17 Pharmaceuticals. So when you mentioned her  
18 name, it just struck me. She worked in our  
19 investor relations department.  
20 Q Did Mike Moshier ever work for  
21 Novartis Pharmaceuticals?  
22 MR. PACE: Object to form.  
23 A Yes.  
24 Q When was that?  
25 A Many years ago. And I only know

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2 that because I've known Mr. Moshier for many  
3 years and I know he did.  
4 Q So he worked in the nineties,  
5 after the merger for Novartis Pharmaceuticals?  
6 A Probably.  
7 Q When did he come over to the  
8 Novartis country companies?  
9 A He never worked -- I don't have  
10 anything to do with him. I just know him  
11 professionally.  
12 Q Who does he work for?  
13 A He's in Pharma.  
14 Q He never worked at the country  
15 companies in any fashion?  
16 A No.  
17 Q Did Ken Schuster ever work for  
18 any of the Novartis Pharmaceutical companies or  
19 affiliates?  
20 A Yes.  
21 Q Which company?  
22 A Novartis Pharmaceuticals  
23 Corporation.  
24 Q Who does he work for now?  
25 A Novartis Finance Corporation.

0202

1 James D. Robinson - Confidential  
2 Q When did he come over from  
3 Novartis Pharmaceuticals to Novartis Finance?  
4 Referring to Mr. Schuster.  
5 A Probably 2001, 2002.  
6 Q What was Mr. Schuster's position  
7 in Novartis Pharmaceuticals?  
8 MR. PACE: Object to form.  
9 A I don't really remember.  
10 Q Did Mr. Naegelin ever work for  
11 Novartis Pharmaceuticals?  
12 A Yes.  
13 Q When was that?  
14 A About the same time frame as  
15 Mr. Schuster, I believe, until about 2000 or

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16 2001.

17 Q What was Mr. Naegelin's position  
18 at Novartis Pharmaceuticals?

19 MR. PACE: Object to form.

20 A He was the CFO.

21 Q And is he now the CFO of

22 Novartis country companies?

23 MR. PACE: Object to form.

24 A That's his title, yeah.

25 Q What is Mr. Schuster's title

0203

1 James D. Robinson - Confidential

2 currently?

3 A Vice president and treasurer.

4 Q Of what companies?

5 A Novartis Finance Corporation.

6 Q Is it your understanding he was

7 a treasurer at Novartis Pharmaceuticals?

8 MR. PACE: Objection.

9 Objection.

10 A No.

11 MR. PACE: He said he doesn't

12 know.

13 A There's no treasury function in

14 the business.

15 Q Do you know what area he was in

16 when he was at Novartis Pharmaceuticals? Mr.

17 Schuster.

18 A Yes.

19 MR. PACE: Objection.

20 Q What area?

21 A He was in finance.

22 Q Do any other employees come to

23 mind who came from Novartis Pharmaceuticals to

24 Novartis country companies?

25 A Yes.

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2 Q What other employees?

3 A A woman by the name of Jill

4 Pozarek, P-o-z-a-r-e-k, in investor relations.

5 My whole CIP function was at one time employed

6 by Novartis Pharmaceuticals Corporation, and

7 that's about 60 people approximately. My

8 aircraft department was at one time employed by

9 Novartis Pharmaceuticals Corporation. That's

10 about ten people. And our new CEO used to be

11 employed by Novartis Pharmaceuticals Company.

12 I can't recall anymore specifically.

13 Q What did Jill Pozarek do at NPC?

14 A I don't know.

15 Q What year did she come into

16 Novartis country companies?

17 MR. PACE: If you know.

18 A I don't know.

19 Q Did you have anything -- any

20 involvement in hiring her over to Novartis

21 country companies?

22 A Yes.

23 Q What was your role?

24 A I interviewed her for the open

25 position.

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2 Q Did you also interview Mr.  
3 Naegelin and Schuster before they came over to  
4 Novartis country companies?  
5 A Yes.  
6 Q What does -- the CIP department,  
7 what does that stand for?  
8 A Corporate intellectual property.  
9 Q Until what year was CIP part of  
10 NPC?  
11 A Approximately 2003.  
12 Q What was the reason that the  
13 corporate intellectual property department,  
14 comprised of about 60 employees, became part of  
15 the Novartis country companies?  
16 MR. PACE: Object to form.  
17 Calls for speculation.  
18 A I don't know.  
19 Q Who authorized that change, from  
20 CIP working for NPC to CIP working for Novartis  
21 country companies?  
22 MR. WEXLER: Object to the form.  
23 MR. PACE: Same objection.  
24 A I don't know.  
25 Q Were you involved in discussions

0206

1 James D. Robinson - Confidential  
2 about CIP becoming under the corporate country  
3 umbrella?  
4 MR. PACE: Object to form.  
5 MR. WEXLER: Objection.  
6 A No.  
7 Q Do you know who was in charge of  
8 that decision-making?  
9 MR. PACE: Object to form.  
10 Asked and answered. Calls for speculation.  
11 A No.  
12 Q What was the reason the aircraft  
13 department at NPC became part of the Novartis  
14 country companies?  
15 MR. PACE: Objection. Calls for  
16 speculation.  
17 A I don't know.  
18 Q Who would know that?  
19 MR. PACE: Same objection.  
20 A I don't know.  
21 Q The CIP department has many of  
22 the lawyers. Is that correct?  
23 A Yes.  
24 Q And those are the lawyers who do  
25 work for Novartis Pharmaceutical in terms of

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1 James D. Robinson - Confidential  
2 all their patent and intellectual property  
3 work. Is that correct?  
4 MR. PACE: Objection. Lacks  
5 foundation. Lacks any basis.  
6 A I'm not sure.  
7 Q Who would know the answer to  
8 that?  
9 MR. PACE: Calls for  
10 speculation. I object.  
11 A I don't know.



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MR. PACE: Before we pass it over, we've been going over a little over an hour now. We'll be very quick, but can we take just a five-minute break? Is that okay?

MR. WITTELS: Yes. You're under oath and are not allowed to discuss the case with counsel.

(A recess was taken from 11:09 a.m. to 11:18 a.m.)

(Robinson Exhibits 3 through 6: Marked for identification.)

Q Mr. Robinson, showing you what we marked as Robinson Exhibit 3, entitled "Enrollment Guide," Bate stamped NCORP 686 to

James D. Robinson - Confidential 700, and it says on the second page, "This enrollment guide summarizes the benefits and service features available under various Novartis Group Company benefits plans for eligible employees," dot, dot, dot, and includes Novartis Corp. and Novartis Pharmaceuticals Corp. Do you see that document?

MR. PACE: For completeness, it says, "for eligible employees who participate in the benefits programs of," and it continues.

MR. WITTELS: I know, Jack, but I can ask the questions how I want. Thanks.

MR. WEXLER: Is this Robinson 3?

MR. WITTELS: Yes.  
Q Are you familiar with this document?

A Yes.  
Q Is this an enrollment guide that's prepared by the Novartis country companies?

A No.  
Q Who prepares it?  
MR. PACE: Objection. Calls for

James D. Robinson - Confidential speculation.

A I don't know.  
Q Is it prepared by someone or some entity at the direction of the Novartis country companies?

A No.  
Q Where did you get this document?  
MR. PACE: Objection to form.

A It was sent to my home.  
Q This is a document that is sent to all of the Novartis employees of the companies listed on page 2 of it, NCORP 687. Is that right?

MR. PACE: Objection. Calls for speculation.

A No.  
Q What is this?  
A There's some unionized employees. It's just eligible employees. Some of these unionized employees don't get this.  
Q Okay. You have no idea who puts

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23 together this enrollment guide?

24 A No.

25 Q Is it prepared by Novartis

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2 Pharmaceuticals?

3 MR. PACE: Objection. Asked and  
4 answered. Calls for speculation.

5 A I don't know.

6 Q Is this a document you believe  
7 that's prepared by Switzerland, one of the  
8 Novartis companies there?

9 MR. PACE: Objection. Asked and  
10 answered. Calls for speculation.

11 A I don't know.

12 Q Turn to page NCORP 695, where  
13 they refer, after the big black box, to calling  
14 the Novartis benefits resource center and the  
15 877 number. Do you see that?

16 A Yes, sir.

17 Q Who maintains the Novartis  
18 benefits resource center?

19 MR. PACE: Objection. Calls for  
20 speculation.

21 A Hewitt Associates.

22 Q Who is that?

23 A They manage -- they're the  
24 outsourced manager of the employee benefits,  
25 some of them, these benefits.

0211

1 James D. Robinson - Confidential

2 Q Who selected Hewitt Associates  
3 to manage the employee benefits for the  
4 benefits listed in this enrollment guide?

5 MR. PACE: Objection. Calls for  
6 speculation.

7 A I don't know.

8 Q Who pays the outsource company,  
9 Hewitt Associates, to manage the Novartis  
10 benefits resource center?

11 MR. PACE: Same objection.

12 A I don't know.

13 Q Where is the Novartis benefits  
14 resource center?

15 MR. PACE: Object to form.

16 A I don't know.

17 Q Were you involved in -- within  
18 the past four or five years, in setting up or  
19 part of a team that evaluated what benefits  
20 plan should be standardized for the different  
21 Novartis companies?

22 MR. PACE: Object to the form of  
23 the question. Vague and ambiguous. Lacks  
24 foundation.

25 A No.

0212

1 James D. Robinson - Confidential

2 Q Were you part of any type of  
3 team that evaluated whether there should be  
4 standardized medical plans for the different  
5 Novartis companies?

6 MR. PACE: Same objection.

7 A No.

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Q Were you part of any type of an evaluatory group or ad hoc committee that looked into what sort of benefits or medical plans should be set up for Novartis companies, including Novartis Corp., Novartis Pharmaceuticals?

MR. PACE: Same objections.

A No.

Q Who would know what person or company is responsible for writing and setting up this enrollment guide marked as Robinson 3?

MR. PACE: Object to form.

Calls for speculation.

A I don't know.

Q What is the Novartis investment program?

MR. PACE: Object to form.

A That's the 401K savings plan.

James D. Robinson - Confidential

Q Who administers the Novartis 401K savings plan?

A Well, each of the affiliates administers it.

Q Who set up the 401 savings plan that each of the affiliates administers?

A Each affiliate set up its own plan.

Q Is there some master template that emanates from one of the Novartis country companies?

MR. PACE: Object to form.

A No.

Q Are you familiar with the type of 401K plan that's used by Novartis Pharmaceuticals?

A Yes.

Q How are you familiar with that?

A That's the one I participate in.

Q Do the Novartis country companies have their own 401K plan?

A No.

Q Why do you participate in the Novartis Pharmaceuticals' 401K plan?

James D. Robinson - Confidential

A Just because it makes sense, based on our small size, to participate in their 401K plan.

Q Why do the Novartis country company employees participate in the 401K plan of Novartis Pharmaceuticals and not some other Novartis company?

MR. PACE: Object to form.

A Because at the time we made the decision, it was -- we felt like it was the plan that best suited our needs.

Q What about it best suits your needs?

A Well, for one thing, most of our internal moves come from Novartis Pharmaceuticals because it's our largest affiliate, and it just makes that transfer,

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19 intercompany transfer, easier if they go from  
20 the same plan. Whereas if I bring in people  
21 from Consumer Health and Ciba Vision and  
22 Gerber, which I've done, it's a totally  
23 separate plan and they just start over in a new  
24 plan, which -- anyway. It's just that most of  
25 my pool of applicants come from Novartis

0215

1 James D. Robinson - Confidential  
2 Pharmaceuticals.

3 Q When you say your "pool of  
4 applicants" --

5 A Internal applicants.

6 Q -- you're talking about who  
7 would then come and work for Novartis country  
8 companies comes from Novartis Pharmaceuticals.  
9 Is that correct?

10 A Yes.

11 Q Who administers the 401K plan of  
12 Novartis Pharmaceuticals?

13 A Fidelity.

14 Q Who is the contact person at  
15 Novartis Pharmaceuticals who's in charge of the  
16 401K plan?

17 A For Novartis Pharmaceuticals?

18 Q Right.

19 A I'm not sure. I don't know.

20 Q So the plan that you enroll in,  
21 what is the title of it? Does it say Novartis  
22 Pharmaceuticals 401K?

23 A I'm not sure.

24 Q Is there some document that you  
25 have to fill out and you get that to

0216

1 James D. Robinson - Confidential  
2 participate?

3 A It's been so long, I just can't  
4 remember.

5 Q When your employees come over  
6 and start at one of the Novartis country  
7 companies, you have them fill out the forms to  
8 join a 401K plan. Correct?

9 MR. WEXLER: Objection to  
10 foundation.

11 A Yes. But if they come from  
12 Pharma, they don't have to fill out a form  
13 because they are already in that plan. If they  
14 come from Gerber or Ciba Vision or OTC, they  
15 have to fill out a form because each of those  
16 companies has a separate plan. We just have  
17 adopted the Pharma plan to use. It just  
18 facilitates the transfers coming from Pharma.  
19 Most of our transfers are from Pharma because  
20 they have such a huge population base.

21 Q And if you're a new employee at  
22 one of the Novartis country companies, you have  
23 to fill out a 401K plan enrollment form.  
24 Correct?

25 A Yes.

0217

1 James D. Robinson - Confidential

2 Q And you get statements every  
3 month showing what plan you're in. Correct?

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4 A Quarterly.  
5 Q And those statements say,  
6 Novartis Pharmaceutical 401K plan. Is that  
7 correct?  
8 MR. PACE: Objection.  
9 Mischaracterizes. Lack of foundation.  
10 MR. WEXLER: Asked and answered.  
11 A I'm not sure which. The Web  
12 page just said Novartis.  
13 Q The Web page for what?  
14 A With Fidelity.  
15 Q Is that the Novartis with the  
16 Novartis logo?  
17 A I'm not sure. I believe it has  
18 the logo. They don't customize the Web page.  
19 So if you're with Ciba Vision, it still says  
20 Novartis. If you're with Novartis  
21 Pharmaceutical Corporation, it still says  
22 Novartis.  
23 MR. WITTELS: Read that question  
24 and answer back, please.  
25 (Record read.)

0218

1 James D. Robinson - Confidential  
2 Q Does the Novartis country  
3 company offer any life insurance to its  
4 employees?  
5 A Yes.  
6 Q Is that through its own plan, or  
7 through a plan from Novartis Pharmaceuticals?  
8 A No. We've adopted the Novartis  
9 Pharma life insurance plans.  
10 Q Again, is that -- can you enroll  
11 where you go to the Web page to enroll, or some  
12 other way? Do you know?  
13 A I'm sorry, I don't know.  
14 Q Now, what about the medical and  
15 dental plan offered by Novartis country  
16 companies? Is that a Novartis Pharmaceutical  
17 medical and dental plan?  
18 A Yes.  
19 Q If you need to see -- strike  
20 that.  
21 Do the Novartis country  
22 employees go to the doctors on site at Novartis  
23 Pharmaceuticals?

24 MR. PACE: Object to form.  
25 A Yes.

0219

1 James D. Robinson - Confidential  
2 Q And how many people are there  
3 who are part of the medical team for Novartis  
4 Pharmaceuticals?  
5 MR. PACE: Object to form.  
6 A I'm not sure.  
7 Q I know you said you worked with  
8 the head of the medical department, Dr. --  
9 Mauceri.  
10 Q Is his staff in Florham Park, or  
11 is it in East Hanover?  
12 A I think he's at both sites.  
13 Most of his people are in East Hanover.  
14 Q So if a Novartis country

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15 administrative employee needs medical  
16 attention, he'll go to Dr. Mauceri or his staff  
17 in New Jersey. Is that right?

18 MR. PACE: Object to form.

19 A If they wish.

20 Q They're part of the plan that  
21 offers coverage or medical treatment by Dr.  
22 Mauceri and his staff at Novartis  
23 Pharmaceuticals. Correct?

24 MR. PACE: Object to the form of  
25 the question, particularly as to the word

0220

1 James D. Robinson - Confidential  
2 "plan." You can answer.

3 A It's part of my agreement with  
4 utilizing their HR function. The pieces that  
5 we utilize in Dr. Mauceri's clinic is part of  
6 our services agreement that we have with  
7 Novartis Pharmaceuticals Corporation.

8 Q Does Novartis Services or any of  
9 the other Novartis country companies pay  
10 Novartis Pharmaceuticals for any medical  
11 services provided by Dr. Mauceri or his  
12 Novartis Pharmaceuticals medical employees?

13 A I don't know.

14 Q Are the Novartis country  
15 companies also getting dental coverage from a  
16 Novartis Pharmaceutical plan?

17 MR. PACE: Object to form. Same  
18 characterization of "plan."

19 A Yes.

20 Q Have you yourself gone to New  
21 Jersey to use the medical or dental facilities  
22 offered by Novartis Pharmaceuticals?

23 MR. WEXLER: Objection.

24 MR. PACE: Same objection.

25 A No.

0221

1 James D. Robinson - Confidential

2 Q Let me show you what we've  
3 marked as Robinson Exhibit 4, which is the  
4 Novartis Pharmaceuticals Corp. disability plan  
5 effective January of '00, NPC 124 to NPC 142.  
6 Ask you to look at it and tell me if you're  
7 familiar with this disability plan.

8 A Yes.

9 Q Is this a disability plan that  
10 the Novartis country companies prepared for  
11 Novartis Pharmaceutical?

12 A No.

13 Q Who prepared the Novartis  
14 disability plan that we're looking at, Exhibit  
15 4?

16 MR. WITTELS: Object to form.  
17 The use of the word "Novartis." Lacks  
18 foundation.

19 A I don't know.

20 Q Does Novartis -- do the Novartis  
21 country companies have their own disability  
22 plan?

23 A No. We follow this when we  
24 adopted this plan.

25 Q So the plan I'm looking at for

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0222

1 James D. Robinson - Confidential  
 2 Novartis Pharmaceuticals Corporation is the  
 3 same plan for Novartis country employees?

4 A Yes.

5 Q Do you have a different title to  
 6 the disability plan that Novartis country  
 7 company employees use, or is it the same plan  
 8 that we're looking at, Robinson Exhibit 4?

9 A I'm not sure.

10 Q But the -- if you're disabled,  
 11 you go -- a Novartis country employee goes  
 12 through the NPC disability plan that's  
 13 described in this document, Exhibit 4.  
 14 Correct?

15 MR. PACE: Objection. Form.

16 MR. WEXLER: Objection to form.

17 A The terms of this plan would  
 18 apply to my disabled employees.

19 Q Why did the Novartis country  
 20 companies adopt the NPC corporation disability  
 21 plan?

22 A Ease of administration. The  
 23 plan is competitive and would meet our needs.

24 Q How long has or have the  
 25 Novartis country companies been using the NPC

0223

1 James D. Robinson - Confidential  
 2 disability plan?

3 A Since 1/1/97.

4 Q What is the reason that the  
 5 Novartis country companies adopted the NPC  
 6 disability plan as opposed to some other  
 7 affiliate or company's disability plan?

8 A Because the short-term piece is  
 9 tied to the payroll. I think the short-term  
 10 piece is self-insured. And we use the payroll  
 11 department of Novartis Pharmaceuticals  
 12 Corporation. So if I used another payroll  
 13 department, it would -- so that's  
 14 self-administered. That's one reason.

15 And the other reason is because  
 16 the medical department at Novartis  
 17 Pharmaceuticals Corporation has some oversight  
 18 responsibility for short-term disabilities, and  
 19 we use their medical department.

20 Q Let me show you what we marked  
 21 as Robinson Exhibit 5, entitled "Novartis  
 22 Pharmaceuticals Corp. Restoration Plan  
 23 Effective 1/1/98," NPC 81 to NPC 98. Can you  
 24 look at that and tell me if you're familiar  
 25 with this document?

0224

1 James D. Robinson - Confidential  
 2 (Pause.)

3 Q Are you familiar with this  
 4 document?

5 A Yes.

6 Q What is it?

7 A It's a non-qualified -- IRS  
 8 non-qualified plan that restores certain  
 9 benefits that are above the government caps on  
 10 qualified benefits.

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11 Q Is this restoration plan a  
12 document that one of the Novartis country  
13 companies prepared?  
14 A No, sir.  
15 Q Was it prepared at the direction  
16 of any Novartis country companies?  
17 A No.  
18 Q Who prepared it?  
19 A I don't know.  
20 Q Does the restoration plan apply  
21 to Novartis country employees?  
22 A Yes, it does.  
23 Q Did Novartis country adopt this  
24 restoration plan for its own use?  
25 A Yes.

0225

1 James D. Robinson - Confidential  
2 Q That's been since January of  
3 '98, or before?  
4 MR. PACE: And I just interpose  
5 an objection before the witness answered that  
6 last question to the use of the word "plan" as  
7 my objections before. But you can, of course,  
8 answer.  
9 THE WITNESS: I'm sorry. What  
10 was the question again?  
11 (Record read.)  
12 A Well, the merger was on 1/1/97,  
13 so something had to be in effect between 1/1/97  
14 and 1/1/98. I don't know where that is. But  
15 the plan in essence has not changed since  
16 1/1/97.  
17 Q Why did the Novartis country  
18 companies adopt the Novartis Pharmaceuticals  
19 Corp. restoration plan?  
20 A Okay. Because most of the plan  
21 is unfunded, so when I have -- and my employees  
22 retire under the Novartis Pharmaceuticals'  
23 pension plan and I use the Novartis  
24 Pharmaceuticals' payroll system. So when I  
25 have an employee who retires and has a

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1 James D. Robinson - Confidential  
2 non-qualified, unfunded benefit, it has to be  
3 paid by the Novartis Corporation payroll  
4 department each month, hence the reason I  
5 adopted the Novartis Pharmaceuticals'  
6 restoration plan.  
7 Q Take a look at Robinson Exhibit  
8 6, please. This is titled, "The Manager's  
9 Guide Executive MBA program and Executive  
10 Education," NCORP 200 to 206. Are you familiar  
11 with this manager's guide?  
12 A No.  
13 Q Are you aware of whether  
14 Novartis country employees participated in the  
15 executive MBA program offered by Novartis  
16 companies?  
17 MR. PACE: Object to form.  
18 Lacks foundation.  
19 A Yes, and they don't.  
20 Q Do you know why?  
21 A We haven't adopted this program.



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22 We have our own program, but I wouldn't use  
23 this program.

24 Q When you say "We," you're  
25 talking about the Novartis country companies

0227 1 James D. Robinson - Confidential  
2 has its own MBA executive program?

3 A Yes.

4 Q Why haven't you adopted this NPC  
5 program?

6 MR. PACE: Object to form.

7 A It's just -- it would be too --  
8 my MBA program is much more ad hoc. We  
9 wouldn't give ourselves to all of this  
10 regulation in here, and some of the provisions  
11 of this program wouldn't fit in my population.  
12 And -- excuse me. Most of my employees have  
13 graduate degrees anyway and it would be an  
14 exception rather than the rule before we would  
15 sponsor an employee for an MBA who already had  
16 a graduate degree.

17 Q Have you ever, over the years  
18 from '96 to 2005, been involved in any  
19 investigation of any complaints by Novartis  
20 Pharmaceutical officers, directors, or  
21 employees with respect to anything job related?

22 MR. WITTELS: Object to form.

23 A I can't recall.

24 Q You can't recall whether it  
25 happened, or you're saying it could have and

0228 1 James D. Robinson - Confidential  
2 you just don't remember?

3 MR. PACE: Object to form.

4 A I just don't know.

5 Q You're saying it could have  
6 happened?

7 MR. PACE: Same objection. He's  
8 answered it.

9 A I don't know.

10 Q Has the HR department at  
11 Novartis Pharmaceuticals, be it the head or any  
12 of the employees under that, consulted you over  
13 the years from '96 to present with respect to  
14 any issues about Novartis Pharmaceutical  
15 employees?

16 MR. PACE: Object to form.

17 A I can't recall.

18 Q Have you ever offered any advice  
19 or suggestions to anyone at Novartis  
20 Pharmaceuticals about how to handle employee  
21 grievances, employee disputes, or employee  
22 issues?

23 MR. PACE: Object to the form.

24 A I can't recall.

25 Q Do you participate at monthly

0229 1 James D. Robinson - Confidential  
2 meetings of the Novartis Pharmaceuticals' human  
3 resources department?

4 MR. WEXLER: Objection. Lacks  
5 foundation.

6 MR. PACE: Same objection.

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7 A No.  
8 Q Do they not have a monthly  
9 meeting at which you call in where there's an  
10 executive committee of Novartis  
11 Pharmaceuticals' HR and you participate in  
12 those discussions?  
13 MR. PACE: Objection. Lack of  
14 foundation.  
15 A Yes.  
16 Q What is that meeting called?  
17 A It's an acronym, HRBT or  
18 something like that. I don't know what it even  
19 stands for.  
20 MR. WITTELS: Could you read  
21 back the last question and read back the  
22 answer?  
23 (Record read.)  
24 Q Why did you answer no when I  
25 asked you if you participated in monthly

0230  
1 James D. Robinson - Confidential  
2 meetings of the Novartis human resources?  
3 MR. PACE: Objection. You're  
4 mischaracterizing his testimony, and that's an  
5 inappropriate question.  
6 A Because I thought you said  
7 Novartis Pharmaceuticals Corporation.  
8 Q As opposed to what?  
9 A This HR team meeting is broader  
10 than -- it would be other people who are on  
11 this call or in this meeting outside of  
12 Novartis Pharmaceuticals Corporation.  
13 That's -- I didn't mean to mislead you. I  
14 just -- the first question sounded like you  
15 meant some sort of monthly staff meeting of  
16 Novartis Pharmaceuticals Corporation, not a  
17 broad meeting of senior HR practitioners.  
18 MR. PACE: And he wasn't saying  
19 you were misleading him.  
20 THE WITNESS: I'm sorry.  
21 Q Who participates at the Novartis  
22 human resources meeting that you participate  
23 in?

24 MR. PACE: Object to form.  
25 A Okay. It's the head of HR of

0231  
1 James D. Robinson - Confidential  
2 Novartis Pharmaceuticals Corporation and her  
3 direct reports, and then there other are HR  
4 people, including myself, who are users of the  
5 Novartis Pharmaceuticals Corporation  
6 infrastructure.

7 Q Who are the other people like  
8 yourself who use the NPC infrastructure?

9 MR. PACE: Object to form.  
10 Calls for speculation.

11 A Let's see. One of them would  
12 be -- somebody from NIBRI in Cambridge  
13 participates. There's someone there from  
14 Oncology, which is managed separately, and tech  
15 ops, which is managed separately, and myself.  
16 We're -- I think we're more just ex officio  
17 than actually members of this committee. But

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18 since the committee discusses HR policies which  
19 typically we adopt, then it behooves us to  
20 listen in to the meeting so we'll know if  
21 Pharma is recommending to change a policy.  
22 MR. PACE: Could the reporter  
23 just read back the question that he was just  
24 answering? Could the reporter read back the  
25 question?

0232

1 James D. Robinson - Confidential  
2 (Record read.)

3 MR. PACE: Okay, thank you.

4 Q How long have you been  
5 participating at these monthly HR policy  
6 meetings?

7 MR. PACE: Objection to form.

8 MR. WEXLER: Objection to  
9 characterization.

10 MR. PACE: Precisely.

11 A About a year.

12 Q Are there minutes of the  
13 meetings that are distributed, or memos of what  
14 went on at these meetings that are distributed  
15 to you after the meeting?

16 A I'm not sure.

17 Q Do you get some kind of agenda?

18 A We get an agenda, yes.

19 Q Is that before or after the  
20 meeting?

21 A Before.

22 Q Do you get anything after which  
23 summarizes what went on at the meetings?

24 A I'm not sure.

25 Q Do you participate by speaking

0233

1 James D. Robinson - Confidential  
2 at these meetings?

3 A If it's a topic at the meeting  
4 that pertains to me and my workforce, yes.

5 Q Describe to me all the topics in  
6 the last year that would apply to you that you  
7 would speak about.

8 MR. PACE: Objection.

9 Overbroad. It's an unreasonable question. But  
10 you can try to answer.

11 A One topic recently had to do  
12 with Pharma's changing its pension plan the  
13 first of the year. And since my people are  
14 under the Pharma retirement benefits, any new  
15 employees that are beginning in January will go  
16 into the new Pharma retirement plan, so that's  
17 something that -- a topic that I needed to know  
18 about. So a lot of it is benefits related.  
19 Actually, most of the things that I would  
20 listen to would be benefits related.

21 We had a presentation on the new  
22 rates we're going to charge employees for all  
23 the health and welfare benefits in 2006, which  
24 directly affects my people. So -- I think  
25 Pharma is changing its disability plan too,

0234

1 James D. Robinson - Confidential

2 next year, I know they are, and it just went to

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the Pharma board. Because it's real technical, I wouldn't understand it unless a benefits expert explained it to me. It has to do with a carve-out or something or other.

Q Are there any other meetings or informational sessions that you participate in with Novartis Pharmaceuticals' HR?

A Yes.

Q What are those meetings or gatherings?

A We have a meeting three times a year. It's the Novartis leadership team. I think it is, something like that.

Q What is that, the leadership team?

A It's sponsored by the head of human resources.

Q The head of what company and where?

A Novartis AG. And we meet three times a year. It's a global meeting. And the head of human resources for Novartis Pharmaceuticals Corporation in East Hanover

James D. Robinson - Confidential participates and is a member of this team.

Q Is this -- when you said headed by AG, this is the head of all global --

A Intergalactic, yeah.

Q And these meetings are held all over the place, including Europe, in Switzerland?

A We have two meetings in Basel and another meeting at another European city. I think it's in Stockholm in 2006.

Q What is the purpose of these Novartis leadership team meetings?

A Probably networking, benchmarking, sharing best practices.

Q Are materials handed out at these meetings?

A Yes.

Q Do you keep copies of those materials?

A I don't. Not typically, no, I don't.

Q Are the best practices that are described at these meetings practices that you are instructed to follow at the Novartis

James D. Robinson - Confidential country companies and the other Novartis affiliated companies?

MR. PACE: Object to form.

A Not -- not instructed to follow typically. It's just more like, This is, you know, what HR in Germany is doing. It's working good for them, so they're going to give a presentation on it and you can decide whether or not it might make sense for you, or something like that.

Q Are there meetings with Novartis Pharmaceutical that you have apart from the

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14 global meeting you just talked about and apart  
15 from the monthly meeting you call in at with  
16 Novartis HR people?

17 A No.

18 Q How often do you speak to the HR  
19 department at Novartis Pharmaceutical?

20 MR. WEXLER: Objection to form.

21 Q And by the "department," I mean  
22 the head or any employees there.

23 A Sporadically.

24 Q And how often do you e-mail back  
25 and forth between you and the head or any HR

0237

1 James D. Robinson - Confidential  
2 employees at Novartis Pharmaceuticals?

3 MR. PACE: Objection. Asked and  
4 answered.

5 A It would be very sporadic. Just  
6 if there was an issue or incident or something.

7 Q What would be an incident or  
8 issue that would cause you to e-mail or  
9 communicate back and forth with Novartis  
10 Pharmaceuticals?

11 A Well, it would be if I had a pay  
12 problem. I'm hiring somebody, there's an  
13 issue, a pay issue. I use some of their  
14 relocation services, not all of them -- I have  
15 my own relocation manager -- if I'm  
16 transferring somebody to Novartis  
17 Pharmaceuticals or they're transferring  
18 somebody to me.

19 Q Does global, at these meetings,  
20 describe how to handle employee complaints or  
21 grievances?

22 A No.

23 MR. WEXLER: Objection to form.

24 MR. PACE: I'm just unclear  
25 who's talking right now. Are you done with the

0238

1 James D. Robinson - Confidential  
2 question?

3 MR. WITTELS: If you guys pay  
4 attention, you'll be following the questions  
5 and answers.

6 MR. PACE: You're kidding me.

7 MR. WITTELS: I'm not kidding  
8 you. He answered the question.

9 MR. PACE: I object and so does,  
10 I think --

11 MR. WEXLER: I object as well.

12 MR. PACE: To that last  
13 question. For the record, we interposed  
14 objections.

15 Q Are there any discussions at any  
16 of the global meetings about what to do when an  
17 employee brings a lawsuit?

18 A No.

19 Q Are there any discussions or  
20 guidelines or procedures or any type of  
21 training on how to handle personnel at these  
22 global meetings?

23 MR. WEXLER: Objection to form.

24 MR. PACE: Object to form.

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25 A No.

0239

1 James D. Robinson - Confidential

2 Q So best practices doesn't

3 involve administration of personnel?

4 MR. PACE: Object to form.

5 MR. WEXLER: Objection to form.

6 MR. PACE: It's argumentative

7 too.

8 A Not when we're in 140-plus

9 countries, each with its own legal system.

10 Q When you participate at these

11 monthly meetings with the HR department at

12 Novartis Pharmaceuticals, do they discuss

13 issues of grievances and employee issues --

14 MR. PACE: Objection.

15 Q -- that are not related to

16 benefits?

17 MR. PACE: Object to form.

18 A No.

19 Q You've never been on a

20 conference call or any type of meeting with

21 anybody from Novartis Pharmaceuticals' HR where

22 employee issues not related to benefits have

23 been discussed? Is that your testimony?

24 MR. PACE: Objection. Asked and

25 answered.

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2 A No.

3 Q No, you don't recall employee

4 issues ever being discussed? Is that what

5 you're saying?

6 MR. PACE: Objection. Asked and

7 answered.

8 A No.

9 Q Were you involved in the

10 selection of the new HR department head at

11 Novartis Pharmaceuticals?

12 MR. PACE: Object to form.

13 A No.

14 Q Were you aware that there was a

15 selection process or a search process for a new

16 head of the Novartis Pharmaceuticals' HR

17 department?

18 A Yes.

19 Q When did you become aware of

20 that?

21 A When I knew the job was open.

22 Q When did it become open?

23 A When the other one resigned.

24 Q Who was that?

25 A Mrs. Cunningham.

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2 Q When did Ms. Cunningham resign?

3 A This past summer, I believe.

4 Q And how did you get notification

5 that Ms. Cunningham had resigned from head of

6 HR at NPC?

7 MR. PACE: Object to form.

8 A There was a memo that went out

9 from the CEO, I think, saying she'd resigned.

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10 Q From the CEO of NPC?  
 11 A I believe so. Or it was a press  
 12 release or something. There was something in  
 13 writing.  
 14 Q Are you on some e-mail  
 15 distribution list where you get information  
 16 about internal activities at NPC?  
 17 A No.  
 18 Q Well, are you on an e-mail list  
 19 or distribution list of different business  
 20 activities at NPC?  
 21 A All of the affiliates. It's  
 22 whatever is on the news line in the morning,  
 23 that comes up in this internal news and  
 24 external news.  
 25 Q So internal news is distributed

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1 James D. Robinson - Confidential  
 2 about all the different Novartis companies,  
 3 including Novartis Pharmaceuticals and the  
 4 Novartis country companies. Is that it?  
 5 A I believe so.  
 6 Q Who prepares the internal news?  
 7 A I'm not sure.  
 8 Q Where is it prepared out of?  
 9 A I'm not sure.  
 10 MR. PACE: Object to form.  
 11 Q Is that done by Novartis  
 12 Pharmaceuticals?  
 13 MR. PACE: Object to form.  
 14 Calls for speculation.  
 15 A I'm not sure.  
 16 Q When -- after you learned that  
 17 Ms. Cunningham had resigned, what involvement  
 18 did you have in looking for her successor for  
 19 her?  
 20 MR. PACE: Objection.  
 21 MR. WEXLER: Objection.  
 22 MR. PACE: Lack of foundation.  
 23 Assumes facts not in evidence.  
 24 Mischaracterizes a direct answer to a previous  
 25 question.

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1 James D. Robinson - Confidential  
 2 Q Go ahead. You can answer.  
 3 A No involvement.  
 4 Q Did you interview any of the  
 5 candidates for the head of HR after  
 6 Ms. Cunningham -- for Ms. Cunningham's  
 7 position?  
 8 A No.  
 9 Q Did anyone from Novartis country  
 10 companies interview any of the candidates for  
 11 Ms. Cunningham's replacement as head of HR at  
 12 NPC?  
 13 MR. PACE: Objection. Calls for  
 14 speculation.  
 15 A I don't know.  
 16 Q Do you think that there are  
 17 officers or directors of Novartis country  
 18 companies who interviewed the replacement  
 19 candidates for Ms. Cunningham as head of HR at  
 20 NPC?



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21 MR. PACE: Objection. Calls for  
22 speculation. Asked and answered.  
23 A I wouldn't think so.  
24 Q Were you not made aware that --  
25 of the selection of the replacement for

0244

1 James D. Robinson - Confidential  
2 Ms. Cunningham as head of HR at NPC?  
3 MR. PACE: Object to the form of  
4 the question.  
5 A Yes.  
6 Q Who made you aware of that?  
7 A Dr. Botkatzky-Geiger.  
8 Q Is he the head of HR for all the  
9 Novartis companies in Europe?  
10 MR. PACE: Object to form.  
11 A The world.  
12 Q How did he notify you that a new  
13 HR person had been selected for NPC?  
14 A Telephone.  
15 Q Why did he call you?  
16 MR. PACE: Objection. Calls for  
17 speculation.  
18 A To advise me that we had a new  
19 head of HR in Pharma.  
20 Q Why would that be of interest to  
21 you?  
22 MR. PACE: Same objection.  
23 A Because it would be one of my  
24 key HR peers and somebody I'd work with in the  
25 U.S. And so he would tell me if the new HR --

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1 James D. Robinson - Confidential  
2 we just had an HR of Ciba Vision hired and he  
3 called to tell me that because I work in the  
4 United States and this person does too.  
5 Q Did you call -- did you have any  
6 involvement in ensuring that the paperwork for  
7 the new HR person as head of NPC was in order?  
8 MR. WEXLER: Objection to form.  
9 MR. PACE: Same objection.  
10 A Just one aspect of the BI we do  
11 from the outside, the background investigation.  
12 Q Describe what you mean by doing  
13 a background investigation on people of that  
14 level.  
15 A So -- the security function is a  
16 corporate function, so at some point I  
17 reminded, I think it was specifically Judy  
18 O'Hagan, that she had to remember to do a BI on  
19 Mr. Batlaw because he was coming from the  
20 outside. But that was after I had been  
21 informed that he had been hired. I think it  
22 was before the public announcement.  
23 Q So the security function, you're  
24 saying, is a corporate function that's  
25 performed by Novartis country companies?

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2 A Typically, yeah. Pharma has its  
3 own security function too. I'm not sure what  
4 the relationship is, but I do think the Pharma  
5 security function does the background



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investigations on its own people.

Q Why is the security function something that is administered or run by Novartis country companies for employees?

MR. PACE: Object to form.

Calls for speculation.

A I don't know.

Q Are you in charge of that security function or seeing that it's performed?

A No, sir.

Q Is that part of the checklist that you follow when you have new employees coming on, making sure that the security function is followed for the different companies under the country company umbrella?

MR. PACE: Object --

MR. WITTELS: Objection.

MR. PACE: -- to form. Lack of foundation. Vague and ambiguous at several

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James D. Robinson - Confidential points.

THE WITNESS: I'm sorry. What was the question again?

(Record read.)

A No. There's no checklist. I just took it upon -- because Mrs. O'Hagan is an acting head of HR, I just took it upon myself to remind her that the level of the new head of an HR coming from outside, we perform background investigations. And it was just, By the way, I need to remind you of this. It wasn't in any official capacity. But I think she already knew that anyway, so -- it all happened very fast, as I recall.

Q Was Ms. O'Hagan considered for the position of HR head?

MR. PACE: Object to form.

Calls for speculation.

A I don't know.

Q Who was the head of HR before Ms. Cunningham?

MR. PACE: I object. Further, this is duplicative of another witness' testimony.

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A Mr. Rots, I believe. R-o-t-s.

Q Did you have any involvement in Mr. Rots' selection as HR head?

A No.

Q Do you know who Peter Watts is? Am I saying that right?

A Yes.

Q Was he the previous HR head at NPC?

A Yes.

Q Did you have any involvement in his selection as HR head?

A No.

Q Did you have any involvement at all in Mr. Anthony's selection as head of HR at

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17 NPC?

18 MR. WEXLER: Objection to form.

19 MR. PACE: Same objection.

20 A No.

21 Q Do you know who Mr. Banner is,

22 Rick Banner?

23 A Oh, Bonner.

24 Q Bonner?

25 A Yes.

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2 Q Did he leave the Novartis

3 companies, or stay within Novartis?

4 A He's no longer with Novartis.

5 Q And is Mr. Watts or Mr. Rots in

6 Novartis in any company, or are they outside?

7 A I believe they're both gone.

8 Q Was anyone from Novartis country

9 involved in the selection of the various heads  
10 of HR over the years? Do you know?

11 MR. PACE: Object to form.

12 Calls for speculation.

13 A No.

14 Q You don't know?

15 A No. We weren't involved.

16 Q Do you receive any type of  
17 report or memos from the HR department at NPC  
18 relating to its personnel?

19 MR. PACE: Object to form.

20 Vague and ambiguous.

21 A No.

22 Q Were you at Novartis country  
23 companies in charge of a Best Place to Work  
24 survey?

25 A I'm sorry. Will you rephrase

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2 that?

3 MR. PACE: Repeat it, or

4 rephrase it?

5 THE WITNESS: Repeat it.

6 (Record read.)

7 MR. PACE: Object to form.

8 A Is that "you" singular or "you"

9 plural?

10 Q "You," Novartis country

11 companies.

12 A Plural. Yes.

13 Q Okay. What was your involvement  
14 in that, the Best Place to Work survey?

15 A Well, I'm on the committee to

16 try to get us on the Best Places to Work list.

17 Q To get who on the Best Places to  
18 Work list?

19 A Novartis U.S.

20 Q That would include NPC and any  
21 other Novartis company?

22 A Yes. You can't get on the list  
23 by affiliate; you can only go in in the U.S. as  
24 a whole. So no -- Novartis Pharmaceuticals  
25 can't get on the list by itself, or Gerber

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Products Company can't get on the list by itself.

Q What do they have to get on the list under?

A Novartis, Novartis U.S. Everybody has to go in.

Q Who is the head of Novartis U.S.? Isn't that Novartis Corporation?

MR. PACE: Object to form.

Q Is that right?

A Yes.

Q So you, as the head of Novartis Corporation, are on this committee to get Novartis Corp. listed as the best place to work --

MR. WEXLER: Objection to form.

Q -- which would include the subsidiaries and its company?

MR. PACE: Objection to form. Mischaracterizes the testimony.

A It would be Novartis and all of its affiliates in the U.S.

Q You aren't including the Novartis parent, are you? Or are you?

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MR. PACE: Object to form. What does "Novartis" mean?

MR. WITTELS: Novartis and all of its operating affiliates in the U.S. is how the list is completed.

Q And how long have you been head of this committee?

A I'm not the head of it.

Mr. Jones.

Q What company does he work for?

A Novartis Finance Corporation.

Q What's his position?

A He's head of communications and external affairs. I believe -- external relations, I think it is. I can't remember what the title is.

Q Is there anyone from a non-Novartis country company on the committee?

A Yes.

Q And how many people?

A I don't know.

Q More than one?

A I believe it's just one.

Q How many committee members are

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there from the Novartis country company?

A Three maybe. Three, four.

Q Has the committee gathered information from the various operating companies in the U.S.?

A Yes.

Q What are you doing with that data?

MR. PACE: Object to form.

Lacks foundation.

A It was submitted to the Best

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13 Places to Work Institute.

14 Q Are there any -- do any of the  
15 surveys ask questions about gender issues?

16 MR. PACE: Object to form.  
17 Vague and ambiguous.

18 A No.

19 Q Is there a set questionnaire  
20 that was distributed to Novartis employees in  
21 the U.S.?

22 MR. PACE: Object to form.

23 A Yes.

24 Q And who -- was it one? Has it  
25 been done more than once, or just once this

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2 year?

3 A Twice.

4 Q Okay. Was last year's data ever  
5 submitted to any entity to try to get on the  
6 list?

7 A Yes.

8 Q What happened?

9 A Didn't get on the list.

10 Q Do you know why?

11 A Nope.

12 MR. PACE: Objection.

13 Q Where is that published, the  
14 Best Place to Work?

15 A Fortune Magazine.

16 Q Are the results of those surveys  
17 gathered in any one place?

18 A Yes.

19 Q Are they -- do you gather the  
20 data by company, so Novartis Pharmaceuticals  
21 would have its own responses and -- what  
22 other -- Nutrition would have its own  
23 responses?

24 A I don't think so, no. It's  
25 consolidated.

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2 Q Is Novartis Corp. -- do you  
3 administer Nutrition, their business?

4 MR. PACE: Objection. Vague and  
5 ambiguous as to "administer" and as to "their  
6 business."

7 A No.

8 MR. PACE: Counsel, before --  
9 you're still on this. Before you switch  
10 topics, whenever it might be appropriate to  
11 take a quick last break of the morning?

12 MR. WITTELS: Okay.

13 (A recess was taken from 12:26 p.m.  
14 to 12:42 p.m.)

15 Q Let me show you what we marked  
16 as O'Hagan 2, which is titled, Salary-Title  
17 Transfer Change Form Codes and Descriptions.  
18 Would you take a look at that?

19 MR. PACE: Are there extras in  
20 that Redweld, perchance?

21 MR. WEXLER: I just brought the  
22 originals and one set. I can't locate one.

23 MR. PACE: Okay.

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24 Q Have you looked at that?  
25 A Yes, sir.

0256

1 James D. Robinson - Confidential  
2 Q Is this a Novartis country

3 document?

4 A Well, we use it, yes.

5 Q Was it prepared by Novartis  
6 country for employees who were transferring  
7 back and forth and to be filled out by the  
8 different companies where they're transferring  
9 from or going to?

10 A No.

11 Q Who prepared it?

12 A Novartis Pharmaceuticals, I  
13 believe.

14 Q Do -- does the Novartis --  
15 strike that.

16 Do the Novartis country  
17 company -- strike that.

18 Does Novartis country monitor  
19 the headcount of the Novartis Pharmaceutical  
20 employees?

21 MR. PACE: Object to form.

22 A No.

23 Q Do you at Novartis country  
24 companies report your headcount to any parent  
25 company?

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2 MR. PACE: Object to form.

3 A No.

4 Q Do you monitor the budget of --  
5 "you," the country companies, monitor the  
6 budgets of Novartis Pharmaceuticals?

7 A No.

8 Q Do you keep these forms at  
9 Novartis country company when an employee  
10 transfers to you from Novartis Pharmaceuticals?

11 MR. WEXLER: Objection to form.

12 MR. PACE: Objection to form.

13 A I'm sorry.

14 THE WITNESS: What was the  
15 question?

16 (Record read.)

17 A No.

18 Q Where are the forms shown --  
19 were used in O'Hagan 2 for an employee  
20 transferring from Novartis Pharmaceuticals to  
21 Novartis country companies, go?

22 MR. PACE: Object to form.

23 A I think a new form is created  
24 when they transfer, this form.

25 Q What page are you on?

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2 A Page 2.

3 Q That's what I'm saying. What  
4 happens to these forms when an employee  
5 transfers to your organization?

6 A To me? It's filled out and then  
7 I sign it and then the changes are made in the  
8 HRIS system.

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9 Q Do you at HR Novartis country  
10 companies keep a record of all the changes  
11 within the Novartis group companies?

12 MR. PACE: Object to form.

13 A No.

14 Q Would you have a record at  
15 Novartis country companies of all the changes  
16 within Novartis Pharmaceuticals of all its  
17 employees to or from Novartis Pharmaceuticals?

18 A Yes.

19 Q And why do you at Novartis  
20 country companies have records for employees  
21 who go to or from Novartis Pharmaceuticals?

22 MR. PACE: Object to the form.

23 THE WITNESS: Would you read  
24 over that again, please?

25 (Record read.)

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2 A If they go from the country  
3 companies to Novartis Pharmaceuticals or vice  
4 versa, then they would -- one of these forms  
5 would have to be created because they're going  
6 from one business entity to another business  
7 entity. So I would have a record on either the  
8 going in or the coming in.

9 Q And what about employees who  
10 transfer to other -- from Novartis  
11 Pharmaceuticals to other Novartis companies not  
12 the country companies? Do you keep a record of  
13 that?

14 A No, I wouldn't have anything  
15 like that.

16 Q Have you seen this Profit  
17 Protection Plan Approval form, marked as  
18 O'Hagan 7 before, that has signature lines for  
19 various executives, including Mr. Costa and  
20 Ebeling?

21 A No.

22 Q Are you aware that Mr. Ebeling  
23 was monitoring headcount at Novartis  
24 Pharmaceutical?

25 MR. WEXLER: Objection to form.

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2 MR. PACE: Objection. Lack of  
3 foundation.

4 A No.

5 Q Let me show you what's marked as  
6 O'Hagan 9, called The Work Number. Have you  
7 seen this before?

8 A Yes.

9 Q Are you aware of who established  
10 this work number under which an employee of one  
11 of the Novartis companies listed, including  
12 Novartis Pharmaceuticals and Novartis Corp.,  
13 could call in, or someone other than them could  
14 call in to get verification of employment?

15 A No.

16 Q Is this administered -- did  
17 Novartis country companies set up this 800  
18 number?

19 A No.

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20 Q Who did?  
 21 MR. PACE: Objection.  
 22 A I don't know.  
 23 Q Okay. Show you what was marked  
 24 O'Hagan 12, called a Glossary of Common Terms.  
 25 Have you seen that before?

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 2 A Yes.  
 3 Q Okay. What is this document?  
 4 A This is terms we use in our OTR  
 5 process, organization and talent review.  
 6 Q Who prepared this document?  
 7 MR. PACE: Object to form.  
 8 Calls for speculation.  
 9 A I don't know.  
 10 Q These common terms, are they in  
 11 a manual that the Novartis country company  
 12 uses?  
 13 MR. PACE: Object to the form of  
 14 the question.  
 15 A It's not a manual, but we use  
 16 the terms. It's all on the Internet.  
 17 Q Are these HR talent reviews?  
 18 A No.  
 19 Q Who is -- what are these terms?  
 20 What are they used for within the HR department  
 21 or some other department?  
 22 A All departments, all employees.  
 23 Q So all employees are supposed to  
 24 use those terms in evaluating employees?  
 25 MR. PACE: Objection. Lack of

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1 James D. Robinson - Confidential  
 2 foundation.  
 3 A In terms of discussing your  
 4 talent, you're supposed to use the terms.  
 5 Q And, again, where do these terms  
 6 emanate from for discussing talent in  
 7 employees? Is that from Novartis in  
 8 Switzerland, Novartis Pharma Switzerland, or  
 9 some other entity?  
 10 MR. PACE: Again, objection.  
 11 Calls for speculation. Asked and answered.  
 12 But you may answer.  
 13 A These come from Switzerland.  
 14 Q From which entity?  
 15 A I'm not sure.  
 16 Q And is this Novartis -- do you  
 17 believe it's the Novartis AG, where Mr. Ehrman  
 18 (ph.), the name we couldn't pronounce, is from?  
 19 Is that right?  
 20 MR. PACE: Objection. Calls for  
 21 speculation.  
 22 A I believe so.  
 23 Q So performance, management,  
 24 leadership development processes are developed  
 25 at the HR level, the global HR in Switzerland.

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 2 Is that fair to say?  
 3 MR. PACE: Objection.  
 4 Mischaracterizes.

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5 A Yes. And there's a reason for  
6 that, because we want some processes -- this is  
7 a -- that is so overridingly important to  
8 Novartis globally that it should -- to some  
9 extent it has to be standardized across the  
10 world, especially in terms of definitions and  
11 how you approach that sort of thing.

12 Q Are reviews of employees done in  
13 a standardized way?

14 MR. PACE: Object to form.

15 A Yes.

16 Q Are -- those reviews of  
17 employees, are they conducted pursuant to  
18 guidelines that are -- emanate from  
19 Switzerland? Fair to say?

20 MR. PACE: Objection.

21 A To some extent, yes.

22 Q To what extent?

23 A We use one form all over the  
24 world; everybody's evaluated under the same  
25 criteria in all of our countries.

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2 Q Who prepared that form?

3 MR. PACE: Objection. Calls for  
4 speculation.

5 A I don't know.

6 Q The form emanates however, from  
7 Novartis HR global?

8 MR. PACE: Objection.

9 A Yes.

10 Q Are there other forms that  
11 emanate from global that are used in evaluating  
12 performance of employees in the United States?

13 MR. PACE: Objection. Vague and  
14 ambiguous.

15 A The performance management form,  
16 the OTR form; those are the only two forms I  
17 can think of.

18 Q Are there other forms that you  
19 use at Novartis country companies for  
20 evaluating employee performance?

21 A No.

22 Q Are there any forms that  
23 Novartis Pharmaceuticals uses in addition or  
24 different from the performance management form  
25 and the OTR form --

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2 MR. WEXLER: Objection.

3 MR. PACE: Objection. Calls for  
4 speculation.

5 Q -- in evaluating employees'  
6 performance?

7 A I don't know.

8 Q Do you review the performance  
9 management forms and the OTR forms of Novartis  
10 Pharmaceutical employees?

11 MR. PACE: Object to form.

12 A No.

13 Q Have you over the years had  
14 occasion to review either the performance  
15 management form or the OTR forms of NPR



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16 employees?

MR. PACE: Did you mean NPC?

MR. WITTELS: NPC.

MR. PACE: Objection. Asked and

20 answered.

A Yes.

Q For what reason?

A When they were applying for a

24 job opening in my business entity.

Q Have you seen any of the

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2 evaluation forms of any of the plaintiffs who  
3 are alleging gender discrimination in this  
4 lawsuit?

A No.

6 Q Have you conducted any type of  
7 investigation or had anyone at your direction  
8 conduct any investigation into whether any of  
9 the allegations of gender discrimination in  
10 this lawsuit have merit?

A No.

12 Q Have you consulted with anyone  
13 from HR or any other department about the  
14 allegations in this lawsuit with respect to  
15 employee grievances?

MR. PACE: Object to form.

A No.

18 Q Are you aware of what the  
19 employees, the female employees in this  
20 lawsuit, are contending?

A Yes.

22 Q And how did you gain that  
23 knowledge?

24 A I read their complaint, and I  
25 saw -- I read about it in the newspaper on that

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2 news story, I think it was in the Star Ledger,  
3 that comes online.

4 Q Other than that, have you had  
5 any other information other than a complaint  
6 and a news article about the allegations in  
7 this complaint?

8 A I remember seeing something on  
9 television about it on the news shot; I think  
10 it was the day the complaint was filed or  
11 something.

12 Q Is that the extent of your  
13 knowledge? Is that correct?

A Yup.

15 Q Showing you Exhibit 13, called  
16 Staffing Services Contacts. Have you ever seen  
17 this document before? This is marked as  
18 O'Hagan 13.

A No, not specifically.

20 Q This is a document that's  
21 maintained at Novartis country companies?

MR. PACE: Object to form.

A No.

24 Q Do the Novartis country  
25 companies monitor the diversity statistics,

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2 including race and gender, for different  
3 companies under the Novartis country companies'  
4 umbrella?

5 MR. PACE: Object to form,  
6 "monitor" and "umbrella."

7 A We fill out the forms, yes. We  
8 don't monitor, but we submit the forms to  
9 the government because we file a consolidated  
10 EEO report in the United States.

11 Q So who's responsible at Novartis  
12 country companies for gathering that  
13 information about diversity?

14 MR. PACE: Object to form.

15 A A lady who works for me.  
16 Margaret Taylor is her name.

17 Q So the diversity -- how does  
18 Margaret Taylor go about gathering the  
19 information --

20 A She gets the information --

21 Q Let me finish.

22 A Okay.

23 Q How does Ms. Taylor go about  
24 gathering the information for diversity from  
25 the different subsidiary companies of the

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2 Novartis company so that you can report to the  
3 government the consolidated diversity number?

4 A She gets the forms in from the  
5 EEOC and then she sends the forms out to the  
6 EEO compliance person in each of the affiliates  
7 to fill out.

8 Q "She" being?

9 A Ms. Taylor.

10 Q So she would send it to  
11 Ms. Dickson. And Ms. Dickson is an NPC --

12 A Yes, sir.

13 Q And she would gather all the  
14 data from the different subsidiary companies of  
15 the Novartis country companies and that  
16 information would be collated in some fashion.  
17 Is that correct?

18 A Uh-huh.

19 Q Is that a yes?

20 A Excuse me, yes.

21 Q Who would actually collate all  
22 the data regarding diversity that's obtained by  
23 the Novartis country companies from its  
24 subsidiaries?

25 A For the consolidated report?

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2 I'm sorry.

3 Q Yes.

4 A Yes, Mrs. Taylor does that.

5 Q Do you review that report before  
6 it goes out?

7 A Yes.

8 Q Do you edit it?

9 MR. PACE: Object to form.

10 A No. I mean, it is what it is.

11 There's no editing. I mean --

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Q Do you at the Novartis country companies provide any guidance in terms of memos, procedures, policies and the like, regarding diversity to your subsidiary companies?

MR. PACE: Object to form.

MR. WEXLER: Objection.

A No.

Q Do you know which Novartis company, if any, provides any guidance to the Novartis country companies or any subsidiary of the Novartis country companies with respect to diversity issues, including gender and race?

MR. WEXLER: Objection to form.

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MR. PACE: Calls for speculation.

A No.

Q Do you get information at Novartis country companies regarding diversity and race that Novartis wants you to follow?

MR. PACE: Object to form.

Vague and ambiguous.

A No.

Q Do the Novartis country companies have any policy about gender discrimination?

A Yes.

Q And where are they kept?

A They're displayed.

Q Have you had any input into writing any policies and procedures about gender discrimination?

A Yes.

Q What do you do with those policies and procedures?

A It's presented to my board and the board approves it and it's posted in my break rooms.

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Q And are those policies and procedures also posted or disseminated to any of the subsidiary companies of Novartis country company?

MR. WEXLER: Objection to form.

A No. These are my policies.

Q Does Novartis Pharmaceuticals have any policies with respect to gender discrimination?

MR. PACE: Objection. Calls for speculation.

A I don't know, but I'm sure they do.

Q You've never seen them?

A No, I've never seen them.

Q Are there any guidelines that came down from Novartis, the Novartis parent in Switzerland, about gender discrimination that you've seen?

MR. PACE: Objection. Vague and ambiguous.

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23 A We're signatories of the U.N.  
24 global compact which prohibits gender  
25 discrimination, along with a lot of other

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2 things. So Novartis AG signed off on that and  
3 then that was distributed in the U.S., along  
4 with child labor and living wage and everything  
5 else.

6 MR. WITTELS: Actually, let's  
7 mark this as Exhibit 7.

8 (Robinson Exhibit 7: Marked for  
9 identification.)

10 Q Have you seen before today this  
11 Novartis Pharmaceuticals' Alertline 800 number  
12 regarding ethical or legal concerns, marked as  
13 Robinson 7, NCORP 576 to 577?

14 A No.

15 Q Are you aware that there is an  
16 800 number that employees of Novartis  
17 Corporation or the Novartis Group can call if  
18 they have issues?

19 MR. WEXLER: Objection.

20 MR. PACE: Objection. Objection  
21 to your characterization of "Corporation."

22 THE WITNESS: Could I hear the  
23 question again?

24 (Record read.)

25 A Yes.

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2 Q How did you become aware that  
3 there's an 800 number?

4 A This isn't my 800 number. I  
5 have a separate 800 number and I have a  
6 separate policy. So --

7 Q Which 800 number is this for  
8 that's listed on Novartis Robinson 7?

9 A I think this is the number for  
10 Novartis Pharmaceuticals employees. I have a  
11 separate number.

12 Q Did you set up -- "you" being  
13 Novartis country company, set up its own 800  
14 number?

15 A Yes.

16 Q Have you ever had a shared 800  
17 number for legal or ethical concerns with  
18 Novartis Pharmaceutical?

19 A No, I don't think so.

20 Q Does Novartis country companies  
21 do any background checks, other than the  
22 security, on Novartis Pharmaceutical new hires?

23 MR. PACE: Objection.

24 Mischaracterizes his prior testimony directly.

25 A No.

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2 Q Is the security clearance that's  
3 obtained through -- that's necessary for a new  
4 hire something that is initiated by Novartis  
5 Corp. country companies for Novartis  
6 Pharmaceutical employees?

7 MR. WEXLER: Objection to form.

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8 MR. PACE: Object to form.  
9 A No.  
10 Q Do you at Novartis country  
11 companies get the results of any physical, drug  
12 screening, background checks on Novartis  
13 Pharmaceutical employees?  
14 A No.  
15 Q What about security clearance  
16 information? Does Novartis country companies  
17 obtain that for NPC employees?  
18 A No.  
19 Q Do you have any discussion with  
20 Novartis Pharmaceuticals' HR about its staffing  
21 needs in the HR department?  
22 MR. PACE: Object to the form of  
23 the question.  
24 A No.  
25 Q Have you had such discussions

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2 over the years with the HR department of NPC  
3 about its staffing needs?  
4 MR. PACE: Object to form.  
5 Asked and answered.  
6 A No.  
7 (Robinson Exhibit 8: Marked for  
8 identification.)  
9 Q Let me show you what was marked  
10 as Novartis number 8, which is apparently an  
11 advertisement, NCORP 1149. Ask you if you've  
12 seen this ad before.  
13 A No.  
14 Q Does Novartis country companies  
15 place ads for employees in the Novartis group  
16 of companies in the United States?  
17 MR. PACE: Object to form.  
18 A No.  
19 Q Who would have placed this ad,  
20 called "Join Novartis," with the Web site  
21 reference joinnovartis.com?  
22 MR. PACE: Objection to form.  
23 Calls for speculation.  
24 MR. WEXLER: Steve, do you have  
25 another one?

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2 (Handing.)  
3 MR. WITTELS: Sorry.  
4 MR. WEXLER: Thank you.  
5 A I don't know who placed this ad.  
6 Q Would that be -- do you believe  
7 that the global Novartis group is placing ads  
8 for employees in the United States?  
9 MR. PACE: Objection. Asked and  
10 answered. Calls for speculation.  
11 A No. Was this ad in the United  
12 States?  
13 Q Is Novartis Nutrition a company  
14 that reports to Novartis country companies?  
15 A No.  
16 Q Do you administer any of the  
17 plans for Novartis Nutrition?  
18 MR. PACE: Object to form.

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19 A The same plans we would for any  
20 other affiliate, yes. The answer to that is  
21 yes.

22 Q And those are the same plans  
23 that we went over earlier?

24 A Yes.

25 Q Is there a dependent care

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2 spending plan that's separate that Novartis  
3 country companies administers?

4 MR. PACE: Object to form.  
5 Vague and ambiguous.

6 A I don't know.

7 Q Do you in Novartis country  
8 companies place any ads for employees who would  
9 work at Novartis Pharmaceuticals?

10 A No.

11 Q Do you place any ads for  
12 employees who would work at any of the Novartis  
13 companies?

14 A Only my own companies. No.

15 Q You only advertise for employees  
16 for Novartis country companies?

17 A Yes, yes.

18 Q If you're looking for employees  
19 within Novartis country companies, am I right  
20 that the first place you look is internally  
21 within Novartis, and in particular, Novartis  
22 Pharmaceutical?

23 MR. PACE: Objection. Lack of  
24 foundation.

25 A We look internally, but not in

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2 particular to Novartis Pharmaceuticals. We  
3 would look at each of the business affiliates  
4 equally.

5 Q So an announcement goes out from  
6 Novartis country companies to all the  
7 affiliates that you're looking for employees if  
8 you have a vacancy?

9 A It's on the Internet.

10 Q On the Novartis intranet?

11 A Internet. We use both.

12 Q But that's something that only a  
13 Novartis affiliated company employee could look  
14 at. Correct?

15 MR. PACE: Object to form.

16 A No. Most of our jobs are posted  
17 on the Internet also.

18 Q But I'm asking -- you said you  
19 first look at Novartis employees.

20 A Right.

21 Q Do you first post it within a  
22 company intranet so that the Novartis company  
23 employees have first crack at a job opening?

24 MR. PACE: Objection to that  
25 characterizati on.

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2 A I post my jobs simultaneously,  
3 but the internal intranet people would have the

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first crack.

(Robinson Exhibit 9: Marked for identification.)

Q Looking at Exhibit 9, which is "Human Resources Planning and Development," do you see the list of the names on the two pages?

A Yes.

Q Can you tell me if any of these are Novartis country company employees?

A No, none of them are country employees.

Q Were any of these employees on this list at any of the Novartis country companies at any time?

MR. PACE: Object to form.

A No, none of them have ever been.

Q Who determines the -- strike that.

Do you at HR in Novartis country companies report your HR function up to Novartis AG companies?

MR. PACE: Object to form.

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A No, not -- no.

Q Well, who's your HR boss?

MR. PACE: Object to form. Lack of foundation.

A It would be Dr. Botkatzky-Geiger.

Q Is that who you will report HR activities to?

A Yes, sir.

Q How often do you report to him?

MR. PACE: Just an objection to form. He's already said no to your prior question about reporting.

A Twice a month.

Q What type of reports do you send to Dr. Geiger?

MR. PACE: Object to form.

A I just have a phone call with him.

Q And what activities or what aspects of HR do you report to Dr. Geiger twice a month?

MR. PACE: Again, just as before, this escapes me, how this has anything

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to do with this case. We've talked about this over and over again. It's duplicative of other unnecessary questions and other irrelevant testimony and questions.

A Just HR-related projects that I might be working on that he would want to be updated on.

Q Does Dr. Geiger tell you -- tell you or instruct you on certain activities and projects that he wants done?

A He asks for my support, yes.

(Robinson Exhibit 10: Marked for identification.)

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15 Q Have you seen this Exhibit 10  
16 before, which is a one-page welcome sheet  
17 marked NCORP 1176, with a dear new associate  
18 letter from Thomas Ebeling?

19 A No.

20 Q When a new employee starts at a  
21 Novartis country company, do they get a welcome  
22 letter from one of the senior executives?

23 MR. PACE: Object to form.

24 A They get an offer letter. No.

25 Q Is there any master manual or

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2 employee manual that they get when they join  
3 Novartis country companies?

4 MR. PACE: Object to form.

5 A No, unh-unh. I believe the  
6 patent department has a little brochure they  
7 give to new employees just as an on-boarding  
8 type of exercise, but -- welcome to the  
9 corporate intellectual property department.  
10 But that's all I can recall.

11 (Robinson Exhibit 11: Marked for  
12 identification.)

13 Q Showing you what was marked as  
14 Plaintiffs' Exhibit 11. This is titled  
15 "External Executive Coaching Guidelines," NCORP  
16 123 through 143. Have you ever seen this  
17 document before?

18 A No.

19 Q Are you aware of whether  
20 Novartis country companies use coaching  
21 guidelines for its executives that have been  
22 developed by Novartis Pharmaceutical?

23 A No.

24 Q Do you have any guidelines for  
25 coaching executives at Novartis

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2 Pharmaceuticals -- Novartis country companies?

3 A No.

4 Q Do you know if this is a  
5 Novartis country company document?

6 A This isn't my document.

7 Q How do you know that?

8 A Because I don't have the 19-page  
9 document that -- I don't have anybody who could  
10 even do this.

11 Q Do you or has anyone at the  
12 country companies ever done any coaching,  
13 executive coaching, for its own employees?

14 MR. PACE: Object to form.

15 A I outsource that.

16 Q And who does executive coaching  
17 at Novartis Pharmaceuticals? Do you know?

18 MR. PACE: Objection. Calls for  
19 speculation.

20 A I don't know.

21 Q Were you responsible at all for  
22 Julie Kane moving from Novartis country  
23 companies to NPC?

24 A Yes.

25 Q In what way?



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2 A Well, I was her HR person, and I  
3 knew it was time for her to have -- she'd been  
4 in corporate her whole career. It was time for  
5 her to rotate out, and we looked around for  
6 opportunities for her all over. And I'd been  
7 talking to her about it for probably two years.

8 Q Did she ever work for both NPC  
9 and Novartis country companies?

10 MR. PACE: Object to form.  
11 Vague.

12 A At the same time?

13 Q Correct.

14 A No.

15 Q Do you -- are you looking --  
16 strike that.

17 Have you looked for other  
18 Novartis country company employees to find them  
19 work at Novartis Pharmaceutical?

20 MR. PACE: Object to form.

21 A No. We would look for the  
22 opportunity more so than the company. So Julie  
23 had other opportunities also outside of  
24 Novartis Pharmaceuticals. Just that this one  
25 was the one that was the best fit for her.

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2 Q Rachel King is one of the  
3 government affairs people at Novartis country  
4 companies. Is that right?

5 A No. Rachel King is no longer  
6 with the company.

7 Q Where did she go?

8 A She left the company.

9 Q Left Novartis?

10 A Yes.

11 Q What about Skip Ragland? Is he  
12 still with Novartis country companies?

13 A No. He retired.

14 Q What about Sheldon Jones? Is he  
15 still with Novartis country companies?

16 A Yes.

17 Q Did he ever work at Novartis  
18 Pharmaceuticals?

19 A No.

20 Q Did he do any public affairs  
21 work for Novartis Pharmaceutical?

22 A No.

23 Q Is Burt Rosen still with  
24 Novartis country company?

25 A No.

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2 Q Where did he go?

3 A I believe he's at Purdue now.

4 Q Who is Brenda Blanchard?

5 MR. PACE: Counsel, we're trying  
6 here --

7 MR. WITTELS: I have about five  
8 minutes more.

9 MR. PACE: We're over time.

10 MR. WITTELS: I appreciate it.

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11 MR. PACE: Make it quick.  
 12 Q Who's Brenda Blanchard?  
 13 A She's in our government affairs  
 14 office in Washington.  
 15 Q Did she ever work for Novartis  
 16 Pharmaceutical?  
 17 A Yes.  
 18 Q When was that?  
 19 A I think when she was first  
 20 hired, probably about three or four years ago.  
 21 Q How long has she worked for  
 22 Novartis Pharmaceutical?  
 23 A She works for me now. She  
 24 doesn't work for them.  
 25 Q How long did she work for them?

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 2 A Probably a year.  
 3 Q In what area?  
 4 A She was in the government  
 5 liaison job. It's a policy job, health care  
 6 policy job, in Washington.  
 7 Q What about Jim Elkin? Is he  
 8 still with Novartis country company?  
 9 A Yes.  
 10 Q Did he ever work for Novartis  
 11 Pharmaceutical?  
 12 A Yes.  
 13 Q What position?  
 14 A I think he was a sales manager.  
 15 Q What does he do now?  
 16 A He's head of the Washington  
 17 office.  
 18 Q Does Richard Gearhart work for  
 19 Novartis country companies?  
 20 A Yes.  
 21 Q Did he ever work for Novartis  
 22 Pharmaceutical?  
 23 A No.  
 24 Q Does Tom Hoxie work for Novartis  
 25 country company?

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 2 A No.  
 3 Q Who does he work for?  
 4 A I think he works for White &  
 5 Case now. I can't remember specifically  
 6 somebody told me that. He's gone.  
 7 Q Does Debi Tinsley-Rogers work  
 8 for Novartis country company?  
 9 A No.  
 10 Q Did she ever?  
 11 A Yes.  
 12 Q Where does she work now?  
 13 A Some law firm in Los Angeles.  
 14 Q Did she ever work for Novartis  
 15 Pharmaceuticals?  
 16 A No.  
 17 Q Does Marianne Francisco work for  
 18 Novartis country companies?  
 19 A Yes.  
 20 Q Did she ever work for Novartis  
 21 Pharmaceuticals?

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22 A I don't think -- maybe -- I  
23 don't think so ever. She may have worked for  
24 one of the Pharma companies before the merger,  
25 but never for Novartis Pharmaceuticals.

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1 James D. Robinson - Confidential  
2 Q Did James Yu ever work for  
3 Novartis Pharmaceuticals?  
4 A No.  
5 Q What about Keith Boudreau?  
6 A No.  
7 Q Todd Anjay (ph.)?  
8 A No.  
9 MR. PACE: I think it's been  
10 five minutes.  
11 Q Paul Legere, did he work for  
12 Novartis Pharmaceuticals?  
13 A He's Canadian. No.  
14 MR. WITTELS: This is my last  
15 three questions.  
16 Q Have you had any -- have you  
17 given any training sessions to anyone at  
18 Novartis Pharmaceuticals about how to handle  
19 employee relations?  
20 MR. PACE: Object to form.  
21 A No.  
22 Q Have you ever given any advice  
23 or direction to anyone at NPC about how to  
24 handle employee relations or training for NPC  
25 employees?

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2 MR. WEXLER: Objection. Asked  
3 and answered.  
4 MR. PACE: Same objection.  
5 A No.  
6 Q Have you ever had any joint  
7 training between Novartis country company  
8 employees and NPC employees?  
9 MR. PACE: Object to form.  
10 A My new hires, I send them to  
11 their benefits training for the first day of  
12 employment; I think it's every Monday. If I  
13 have a new hire, I send them to that so they'll  
14 learn about the employee benefits.  
15 Q Over at NPC?  
16 A Yes.  
17 Q And they go there in New Jersey.  
18 Is that right?  
19 A Yes.  
20 MR. WITTELS: Okay, thank you.  
21 THE WITNESS: Yes, sir.  
22 MR. PACE: I have a couple  
23 questions.  
24 MR. WITTELS: You have no time  
25 left.

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1 James D. Robinson - Confidential  
2 MR. PACE: I know. I'll have to  
3 be -- I'm squeezing myself.  
4 EXAMINATION  
5 BY MR. PACE:  
6 Q Mr. Robinson, thank you for your

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time today and before. I just have a couple questions.

A Yes, sir.

Q I'm showing you a copy of what I believe was O'Hagan 12.

MR. PACE: My copy is just mine with the number 12 on it. For reference we can show him the other copy.

Q But is this the document that you were shown before?

A Yes.

Q Okay. And did you testify that this is a document that contains terms that are used by one or more Novartis companies in connection with evaluating employees?

MR. WITTELS: Objection to the form. Leading your own witness.

A Yes.

Q Is this form used by any -- by

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your company to decide whether any of your employees should be considered, for example, a high potential candidate as described in this document?

A Yes.

Q Okay. Does this -- does this document -- what do you mean by high potential candidates?

A We use a common language all over the world to define a high potential candidate regardless of what country the employee works in. A high potential candidate is defined by the person who meets these three bullets underneath the definition of the word. So if I'm in Japan or in the U.S. or in Bolivia or Germany, I have to define a high potential employee the same way.

Q So this contains the terminology that you use?

A Yes. It's a common language.

Q Is this document used to determine whether or not an individual employee should get promoted?

A No.

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Q Is this document used to determine what an individual employee's evaluation should be?

A No.

Q You can put it down.

During your deposition you were asked about -- some questions about office buildings, I believe in Florham Park, New Jersey, that were used by NPC. Is that right?

A Yes.

Q You were also asked questions about whether employees of Novartis Corporation or Novartis Services also worked in the same buildings as NPC employees. Do you remember that?

A Yes.

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18 Q And you were also asked whether  
19 there were signs designating the areas of the  
20 building where Corp. employees and Service  
21 employees worked versus NPC employees. Do you  
22 remember that?

23 A Yes.

24 Q Since your initial deposition,  
25 have you done any further investigation in your

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1 James D. Robinson - Confidential  
2 capacity as a 30(b)(6) witness on these issues?

3 A Yes.

4 Q What have you done?

5 A I called one of the people who  
6 works out there and asked her to give me more  
7 detail about the signage because it came up in  
8 my last deposition.

9 Q Whom did you call?

10 A A lady by the name of Beverly  
11 Shellhammer.

12 Q Who is Beverly Shellhammer?

13 A She is the administrative person  
14 in the safety, health and environment  
15 department.

16 Q Does she work in Florham Park?

17 A Yes.

18 Q What did you learn in your  
19 discussion with Beverly Shellhammer?

20 A She told me -- she described the  
21 office space in the building and how our people  
22 were located and the signage in the building.

23 Q What did she tell you about the  
24 signage in the building?

25 A She told me that there was

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2 particular signage at each entrance of the  
3 building, on the ground floor, patio level and  
4 on the parking lot level when you walk in the  
5 building by the elevators that say each of our  
6 companies, Novartis Finance and --

7 MR. WITTELS: I object to the  
8 hearsay, just so it's clear.

9 A -- Novartis Corporation.

10 MR. WITTELS: I object to the  
11 answer. Move to strike. It is calling for  
12 hearsay from someone else.

13 Q Did you learn anything about the  
14 signage in the buildings?

15 MR. WITTELS: Objection. Same  
16 objection to what he learned from someone else.

17 A Yes. There's signage in the  
18 office areas that denote particular rooms that  
19 belong to employees or workplace spaces of  
20 employees of the Novartis group of companies  
21 that I support.

22 Q Did you learn anything in your  
23 capacity as a Rule 30(b)(6) witness about  
24 whether the Novartis Corporation employees or  
25 Novartis Service employees work in separate

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1 James D. Robinson - Confidential  
2 areas of that building?

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3 A Yes, they are separated --  
 4 MR. WITTELS: Objection.  
 5 Objection again to what he learned from someone  
 6 else.  
 7 MR. PACE: Okay.  
 8 Q Your answer?  
 9 A Yes, they do work in separate  
 10 spaces that are separated by walls, and in one  
 11 case, I think there's a glass -- there's a  
 12 door.  
 13 Q Are there any signs at these  
 14 separate areas designating which employees work  
 15 in these areas?  
 16 A Yes.  
 17 MR. WITTELS: Objection. Same  
 18 objection.  
 19 Q And what do the signs say?  
 20 MR. WITTELS: Objection. Same  
 21 reason, learning this from a third-party  
 22 hearsay source.  
 23 MR. PACE: Right. As a 30(b)(6)  
 24 witness, it's an interesting objection. But go  
 25 ahead, answer.

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1 James D. Robinson - Confidential  
 2 A They say Novartis Corporation or  
 3 Novartis Finance Corporation. And there's even  
 4 a sign on the conference room, For the Use of  
 5 Novartis Corporation Employees.  
 6 Q You said "Novartis Finance  
 7 Corporation." Does Novartis Finance  
 8 Corporation --  
 9 A I'm sorry. I meant Novartis  
 10 Services, not Novartis Finance.  
 11 MR. WITTELS: Gets confusing.  
 12 Right?  
 13 MR. PACE: He's not answering  
 14 your questions at this point. I think you  
 15 discussed that.  
 16 Q You were asked today about your  
 17 communications with HR employees at Novartis  
 18 Pharmaceuticals Corporation. Do you remember  
 19 that?  
 20 A Yes.  
 21 Q You also said that you might --  
 22 and this is in my notes and tell me if I'm  
 23 getting this wrong -- you might talk to them if  
 24 a pay issue comes up. Do you remember saying  
 25 that?

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1 James D. Robinson - Confidential  
 2 A Yes.  
 3 Q What did you mean by that?  
 4 A I meant that I use their payroll  
 5 system. And so if one of my people has a pay  
 6 error or the raise didn't go into effect on the  
 7 right date or something, that's what I meant by  
 8 "pay issue."  
 9 Q Do you or any of the employees  
 10 of your human resources department ever tell  
 11 NPC's HR department what policies they should  
 12 adopt?  
 13 A No.

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14 Q Do you ever tell them how to  
15 respond to an employee complaint?

16 A No.

17 Q Do you ever communicate with any  
18 NPC HR employees to discuss whether to hire or  
19 fire any NPC employee?

20 A No.

21 Q During your deposition you were  
22 asked about certain M&A work, your work in  
23 connection with M&A activity of certain  
24 Novartis companies. Do you remember that?

25 A Yes.

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1 James D. Robinson - Confidential

2 Q And that included Novartis  
3 Pharmaceuticals as one of those companies. Do  
4 you remember that?

5 A Yes.

6 Q You testified, did you, that the  
7 company to which the business may or may not be  
8 sold may not always get involved in the  
9 analysis of whether the merger or acquisition  
10 should take place. Do you remember that?

11 A Yes.

12 Q Why doesn't the company into  
13 which the business might be sold always get  
14 involved in that analysis of whether to go  
15 forward with the merger or acquisition?

16 A Typically it's because the  
17 company would not have the people with the  
18 skill set to do the due diligence, or there  
19 would be matters of confidentiality they  
20 wouldn't want disclosed at the company.

21 Q Do these deals that you work on  
22 always get finalized?

23 A No.

24 Q You were asked in your  
25 deposition about the affidavit that you

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2 submitted in support of an earlier motion in  
3 this case. Do you remember that?

4 A Yes.

5 Q Okay. We have a copy if you  
6 need to look at it to answer any of this.

7 During your deposition you were  
8 asked about a statement in your affidavit about  
9 whether Novartis Corporation and Novartis  
10 Pharmaceuticals Corporation have separate bank  
11 accounts. Do you remember that?

12 A Yes.

13 Q And you testified that you  
14 weren't aware whether -- you weren't aware  
15 which specific banks Novartis Pharmaceuticals  
16 Corporation used for its bank accounts. Do you  
17 remember that?

18 MR. WITTELS: Objection to what  
19 he testified. The record speaks for itself.

20 A Yes.

21 Q And you also testified that you  
22 weren't aware what specific bank Novartis  
23 Corporation used.

24 MR. WITTELS: Objection to what  
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25 he testified.

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2 A Yes.

3 Q How do you know that, according  
4 to your affidavit, Novartis Corp. and Novartis  
5 Pharmaceuticals Corporation have separate bank  
6 accounts?

7 MR. WITTELS: Objection to that.

8 A It's just that -- based on my  
9 long experience with the company and being in  
10 executive meetings over the period of years, I  
11 just -- I know that we maintain different bank  
12 accounts for each of the affiliates in the U.S.

13 Q And do you know whether Novartis  
14 Corporation and Novartis Pharmaceuticals  
15 Corporation have a shared bank account?

16 MR. WITTELS: Objection.

17 A They don't have a shared bank  
18 account. That would be against the policy.

19 Q You were asked today about your  
20 participation, your involvement in a Best Place  
21 to Work survey. Do you remember that?

22 A Yes.

23 Q And you described that each  
24 individual Novartis company does not submit a  
25 separate application for the Best Places to

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2 Work Survey, but rather it's submitted on  
3 behalf of all Novartis companies. Is that what  
4 you said?

5 A Yes.

6 Q Why is that? Why don't you  
7 submit individual applications for each  
8 individual company?

9 A Because the Best Places to Work  
10 Institute won't accept individual applications.  
11 The whole process started with Ciba Vision, who  
12 submitted an application a few years ago. And  
13 it was during -- when the institute was looking  
14 into it, they ruled that Ciba Vision was not --  
15 was owned by Novartis, and they rejected them  
16 outright. And then Pharma a few months later  
17 came along and said, We want to do this too.  
18 So then we went back to Pharma and said, Well,  
19 evidently you can't do it by yourself because  
20 Ciba Vision just got thrown out, so if we want  
21 to do this we, have to go in as all the  
22 Novartis consolidated companies in the U.S.

23 Q Whose requirement is it that you  
24 submit a joint application?

25 A The Best Places to Work

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2 Institute.

3 MR. PACE: I have no further  
4 questions.

5 EXAMINATION

6 BY MR. WITTELS:

7 Q Did you go over these lists of  
8 questions with your counsel before today's  
9 deposition?



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10 A Which questions?

11 Q The questions he asked you at  
12 the beginning about separation of -- about the  
13 office structure in New Jersey.

14 MR. PACE: Let me just  
15 interpose. To the extent you can answer the  
16 question without disclosing our communications,  
17 our advice to you as your lawyers, you can  
18 answer the question. I don't know that that's  
19 possible. But to the extent the question calls  
20 for the substance, that's privileged and I'm  
21 going to instruct you not to answer.

22 A I won't answer that.

23 Q So in other words, you had a  
24 discussion with counsel about topics to cover  
25 during today's deposition. Correct?

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2 MR. PACE: Objection. I repeat  
3 my instruction. He is entitled to ask, he's  
4 right, whether we told you -- we talked about  
5 your testimony, told you what to testify, et  
6 cetera. If you can answer that question, you  
7 can go ahead. But if you need to talk about  
8 the substance, you can't answer the question.

9 THE WITNESS: Repeat the  
10 question?

11 (Record read.)

12 A No, that's not true.

13 Q Well, you had a discussion about  
14 covering the issue of the workspace in New  
15 Jersey. Correct?

16 A I told him that we were going to  
17 call Mrs. Shellhammer and she was going to tell  
18 me the signage in case it came up again today,  
19 because last time we spent a long time  
20 discussing the signage.

21 Q Now, at whose direction did you  
22 call Ms. Shellhammer? Is it yourself, or your  
23 counsel?

24 MR. PACE: Objection. To the  
25 extent you can answer this question without

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2 disclosing any request by you for legal advice  
3 or our advice in this case, if you have to say  
4 any of that to answer this question, I instruct  
5 you not to answer. If you can answer the  
6 question without disclosing your request for  
7 advice or our advice, go ahead.

8 A Well, I know Ms. Shellhammer and  
9 I've known her for many years and I would call  
10 her about other things.

11 Q That wasn't my question. My  
12 question was: Who decided to call  
13 Ms. Shellhammer, you or counsel.

14 MR. PACE: Objection. This  
15 is -- you can ask him about his preparation, as  
16 you have, as a 30(b)(6) witness and as he's  
17 required. The company designated this witness  
18 on certain topics. You've inquired about them.  
19 You didn't tell us that you were asking him  
20 only questions of his personal knowledge. You

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21 wanted him as a 30(b)(6) witness, as a company  
22 representative.

23 MR. WITTELS: That's not what  
24 I'm asking.

25 Q Can you answer the question?

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2 MR. PACE: Again, same

3 instruction. If, to answer that question, you  
4 need to disclose your request for advice or our  
5 advice in this case, I'm instructing you not to  
6 answer. To the extent you can answer that  
7 question without disclosing your request for  
8 advice or our advice, you can try to answer.

9 A I'm not acknowledging any more  
10 questions. I would -- I think my time is up.

11 Q Your counsel brought up an issue  
12 and I'm allowed now to follow up on it. You're  
13 under oath here.

14 MR. PACE: He's allowed to ask  
15 about the factual basis for this.

16 Q Did you or did counsel decide to  
17 call Ms. Shellhammer after the last deposition?

18 MR. PACE: Same instruction as  
19 before. If you can't --

20 MR. WITTELS: We've had the  
21 instruction, counsel. Let him answer. He  
22 remembers the instruction. Let him answer or  
23 he's not going to get out of here.

24 MR. PACE: You're asking --

25 MR. WITTELS: He's heard your

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2 instruction. Okay?

3 Q Can you answer the question?

4 MR. PACE: And the same  
5 instruction applies as a 30(b)(6) witness to  
6 the extent --

7 MR. WITTELS: Counsel, you're --

8 MR. PACE: -- without

9 disclosing --

10 MR. WITTELS: We're not going to  
11 get out of here because you're just obstructing  
12 the deposition. He's heard your instruction  
13 five times.

14 Q Answer the question.

15 MR. PACE: And he's heard your  
16 question five times.

17 To the extent you can answer  
18 that question without disclosing advice or your  
19 request for advice, you can try to answer it.  
20 He is entitled to ask about the factual basis  
21 for your testimony and your investigation as a  
22 30(b)(6) witness. But if you can't answer that  
23 question without disclosing your request for  
24 advice or our advice, then I instruct you not  
25 to answer.

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2 THE WITNESS: Could you read the  
3 question again to me, please?

4 (Record read.)

5 A I don't recall.

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Q Isn't it a fact that you discussed your deposition and what went on in your last deposition with counsel?

A No.

Q Isn't it a fact that you went over these questions with counsel before the testimony today?

MR. PACE: Objection. He has already said he did not go over the topics or his testimony, and he just answered your other questions now the third time.

Q Did you answer yes or no?

MR. PACE: Asked and answered. He's already answered that. But you can answer.

A No, not questions.

Q How long did you prepare for today's deposition, for this continued deposition, whether it was today or another day?

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A We've had a couple of meetings.

Q For how long?

A A few hours.

Q Were you aware that during the middle of the deposition, you are not allowed to talk with your counsel about the subject matter of your testimony?

MR. PACE: Let me just -- that's not right at all. The fact is this deposition was closed and the transcript --

MR. WITTELS: This deposition was not closed, counsel, and you violated the rules under the federal rules by talking to this witness when he was still under oath and questioning. And we're going to bring it up with the judge, because you knew it was an open deposition. In fact, Mr. Vince Fitzpatrick said on the record -- his last questions, and I'll read them into the record -- I will read it into the record here.

MR. PACE: I can read it for you.

MR. WITTELS: "I'm persuaded that David didn't" -- this is Mr. Fitzpatrick.

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"Why don't we break now," he said: "I'm persuaded that David didn't understand, so we'll just have to reconvene at another time. This witness is too tired to continue. We'll set up another convenient date to resume."

The deposition was not closed and you spoke to the witness improperly under the federal rules.

MR. PACE: Let me just --

MR. WITTELS: Okay? For hours, he just testified.

MR. PACE: Right. And he said -- and we understand that you asked him, did we discuss his testimony. He said no. Did we discuss the topics of any of these

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17 questions? No. You asked him already, did we  
18 discuss any of these questions. He said no.

19 MR. WITTELS: Okay.

20 Q What did you discuss --

21 (Reporter interrupted.)

22 MR. PACE: Just so we're clear,  
23 what I meant by that -- because I think we're  
24 actually agreeing on this. What I meant was,  
25 for the record, the court reporter circulated

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2 the transcript, we got copies of the transcript  
3 after this deposition. We got copies and I  
4 read it. We got transcripts and an errata  
5 sheet was filled out, which you're getting a  
6 copy of, obviously.

7 MR. WITTELS: We don't have it  
8 before today's deposition, do we?

9 MR. PACE: I don't think it's  
10 been finalized. I think we were actually  
11 agreeing; that's what I meant.

12 Q So what was discussed during  
13 these hours of testimony? What issues?

14 A There weren't any issues. I did  
15 the errata sheets, I corrected my previous  
16 deposition. A notary came in, I notarized each  
17 page, and we called Mrs. Shellhammer.

18 Q You called again?

19 A Yes.

20 Q So you've spent hours preparing  
21 for this deposition today. Correct?

22 A No, not today.

23 Q Not today, but for continued  
24 deposition, meeting with your counsel.  
25 Correct?

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2 A No, I never spent hours. But  
3 between the time I met with Mr. Pace when we  
4 first started and the time that I had been here  
5 today, we had been together a few hours.

6 MR. PACE: Before you get a  
7 question out, let me emphasize we've gotten  
8 discovery requests since then asking for his  
9 documents. A lot of things have happened in  
10 this case, asking for Mr. Robinson's documents,  
11 in between part 1 and part 2.

12 Q And these questions that you  
13 were asked by Mr. Pace are questions that you  
14 had gone over with Mr. Pace before today's  
15 deposition. Isn't that a fact?

16 MR. PACE: Objection. Asked and  
17 answered.

18 Q Isn't that a fact?

19 MR. PACE: You're intimidating  
20 the witness.

21 MR. WITTELS: He has to answer  
22 truthfully under oath. Okay? And he started  
23 answering when you interrupted him, telling me  
24 that some of the questions had been answered.

25 MR. PACE: You're harassing the

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2 witness. He answered the question already.  
3 You're asking him the same question over and  
4 over again.

5 MR. WITTELS: I want a truthful  
6 answer. He's under oath. Sworn testimony.

7 Q Did you go over any of these  
8 questions, any of the questions that were asked  
9 by your counsel prior to today's deposition?  
10 Yes or no.

11 MR. PACE: I object again. He  
12 has answered this question. He has already  
13 told you his answer. And to the extent to  
14 answer this question, which has now been asked  
15 for the fifth or sixth or more time again --  
16 and I apologize for you being kept here,  
17 Mr. Robinson. But to the extent that in  
18 answering this question you need to disclose  
19 your request for advice or our advice to you or  
20 Novartis Corporation in connection with this  
21 case, I instruct you not to answer.

22 A I don't recall any specific  
23 questions.

24 Q Do you remember generally there  
25 was a script of -- there was a script or

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2 general outline of questions that Mr. Pace was  
3 going to ask you at the end of this deposition?  
4 Correct?

5 MR. PACE: Same objection.  
6 Asked and answered. Same instruction.

7 A No, I don't think so.

8 Q No. Did you discuss --

9 MR. PACE: Hold on. Did you get  
10 his answer? Let him finish his --

11 COURT REPORTER: I have his  
12 answer.

13 Q And did you not know that you  
14 were going to be asked questions about your  
15 conversations with Ms. Shellhammer?

16 A No, I didn't know that.

17 Q So you just --

18 A I know you made a big issue of  
19 it last time I was here, because I didn't know  
20 what the signage was, so I thought I'd better  
21 check it out.

22 Q So if I didn't ask it, Mr. Pace  
23 just happened to ask it without having that  
24 planned?

25 MR. PACE: Wait a minute. I

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2 don't understand that question. He just  
3 answered why he talked to her and what they  
4 said. He gave you the full basis and he  
5 testified about the whole conversation. He's a  
6 30(b)(6) witness. Again, this is silly.

7 Q What else did you discuss with  
8 Mr. Pace?

9 MR. PACE: Same objection and  
10 same instruction. You're a 30(b)(6) witness.

11 A I don't remember. The errata  
12 sheets, my corrections that I made.

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13 Q What are the other corrections?  
14 A There was some spelling. I used  
15 a couple of incorrect terms. And that's all I  
16 remember.

17 MR. WITTELS: I want it on the  
18 record that there was an improper  
19 communication. And we'll have to discuss this,  
20 what to do about it.

21 MR. PACE: For the record, we  
22 invite that discussion. The questions and  
23 answers were clear about our discussions.

24 MR. WITTELS: I don't think they  
25 were.

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2 MR. PACE: I'm not done, Steve.  
3 Hold on. And the record is clear, it speaks  
4 for itself. The witness has been more than  
5 cooperative in answering questions about his  
6 preparation as a 30(b)(6) witness, and it is  
7 perfectly clear. And I object to the  
8 harassment of this witness at the end of this  
9 deposition. It was completely inappropriate.  
10 We're going to be taking it up with the Court  
11 as appropriate going forward. Cooperation  
12 cannot continue to be a one-way street in this  
13 case, Steve.

14 For the record, because of the  
15 documents that were used in the testimony under  
16 the protective order, we designate this portion  
17 of the deposition as confidential.

18 (Time noted: 2:00 p.m.)  
19  
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4 \_\_\_\_\_  
5 JAMES D. ROBINSON  
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7 Subscribed and sworn to  
8 before me this day  
9 of 2005.  
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C E R T I F I C A T ESTATE OF NEW YORK ) ss  
COUNTY OF NEW YORK )I, KATHLEEN A. KEEFE, a Shorthand  
Reporter and Notary Public within and for the  
State of New York, do hereby certify:That JAMES D. ROBINSON, the  
witness whose deposition is hereinbefore  
set forth, was duly sworn by me and that  
such deposition is a true record of the  
testimony given by such witness.I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that  
I am in no way interested in the outcome  
of this matter.IN WITNESS WHEREOF, I have hereunto  
set my hand this 10th day of November, 2005.\_\_\_\_\_  
KATHLEEN KEEFE

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 2 E R R A T A  
 3 I wish to make the following changes, for the  
 4 following reasons:  
 5 PAGE LINE

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